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# Seeking Success in Presidential Transitions: The Policy and Personnel Choices of Bill Clinton, 1992-1993.

Esther Clare Jubb

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Title: Seeking Success in Presidential Transitions: The Policy and Personnel Choices of Bill Clinton, 1992-1993

### **Abstract**

Presidential transitions mark the starting point of any regime change in the US federal executive. During this period newly elected Presidents structure their White House, fill thousands of political appointments and select their policy priorities. Using Carl Brauer's observations on the successful conduct of presidential transitions this thesis examines the personnel and policy choices of Bill Clinton during his 1992-1993 presidential transition.

Presidential transition success is, according to Brauer, reliant upon the awareness of four essential factors; early planning, White House structure, setting a legislative agenda and assessing personal strengths and weaknesses. These factors form a framework for the analysis of four domestic policy issue areas. The policies considered are national service, economic and budgetary policy, health care reform and the use of Executive Orders as a policy-making tool. These issues reflect the broad policy intentions of the Clinton administration during its first year in office.

In linking the processes of personnel and policy selection across these issue areas this thesis considers the extent to which the Clinton administration was able to achieve its stated aims and objectives in 1992 and 1993. Assessments are made concerning the levels of success in each of the four factors and conclusions are drawn about the influence of the transition on the conduct of the Clinton presidency.

In examining Bill Clinton's use of Executive Orders in the cases of homosexuals in the military and the reauthorisation of abortion practices a new perspective on the conduct of the modern presidency is unveiled.

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**Declaration**

I confirm that no part of the material offered has previously been submitted by me for a degree in this or any other University.

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## **Chapter 1: Introduction**

The process of regime change is one of considerable political upheaval and institutional uncertainty. As an essential aspect of political life in every western liberal democracy, it is the means by which the political system responds to the demands of the electorate and brings about renewal in many areas of political and social life. Regime change is also important as a symbol of progression as it is invariably linked to addressing present concerns about contemporary issues and problems. The mechanisms by which individual political systems manage the exchange of power is reliant upon their institutional frameworks. However, the presence of a professionalised civil service, which adheres to the principles of a Weberian bureaucracy, enables the transfer of power to take place both promptly and with little disruption to the day to day operation of government.

An exception to this observation, however, is the United States. Unique in so many ways from her European liberal democratic cousins, the process of regime change continues this trend. The transfer of executive power from old to new, from vanquished to victor, is a matter of considerable planning, management and construction. It is a reflection of the institutional necessities and constitutional prerogatives of the executive within the United States' political system. There is a period of transformation during which the victor assembles his future administration, but possesses no formal authority. At the same time the vanquished holds the constitutional powers, but has a reduced ability to exercise them. Constitutionally mandated powers and historical precedents of patronage combine to produce a system requiring an elaborate mechanism for the transfer of power. Compounding the complexity of this passing from one to another is the scope of the executive within the US political system. Designed by the Founding

Fathers to be the minor player in the political system, the presidency has grown beyond a strict constructionist interpretation of Article II of the Constitution.

### **Presidential Transitions, An Outline**

The transfer of executive power in the US political system is known as a presidential transition. Transitions have become recognised by academics and politicians alike as important events within the presidential cycle. They provide not only the link between electing and governing, but also establish the foundations of an incoming administration and its style of governance. The increased importance of transitions is a twentieth century phenomenon. Only with the rapid expansion of the scope of federal government, and the executive branch in particular, have transitions become crucial in determining the shape and content of new administrations. Increasing federal responsibility for, and executive involvement in, the shape of policy designed to benefit ordinary Americans has swelled the ranks of the federal bureaucracy beyond that which could have been imagined by Presidents Washington, Jefferson, Lincoln or even Franklin Roosevelt. Transitions have progressed from being a process whereby newly elected Presidents gathered their closest friends and colleagues around them to offer advice and support to an institutionalised mechanism for the take-over of the executive branch.

The increased importance and scope of transitions has heightened interest in their conduct. What was once regarded as a time for settling in, setting one's house in order, is now considered to be a litmus test for the success or failure of

any new administration. Despite their increased importance, serious academic analysis of the conduct of transitions and their influence over presidential terms of office was lacking until the mid 1980s. Carl Brauer's pioneering work, Presidential Transitions; Eisenhower through Reagan, was the first systematic appraisal of post-war presidential transitions, and provides the benchmark for all subsequent studies. Brauer's work was important because, unlike Laurin Henry's<sup>1</sup> useful study of the Eisenhower transition, it sought to identify principles and generalisations which could be applied to all modern transitions. Brauer's analysis of the transitions of Presidents Eisenhower, Kennedy, Nixon, Carter and Reagan represented the first attempt to uncover common threads in the appointment process and the White House personnel and policy making structures in a search for a framework or recipe for transition success.

Subsequent works by scholars such as James Pfiffner and Paul Light have developed many of the principal factors in Brauer's analysis, but from slightly different perspectives. Rather than focusing on the transition as a whole, they selected elements within the transition - appointments, White House structure, policy making, presidential agenda - to highlight essential strengths and weaknesses within the individual presidencies. However, it is in combination that all these elements form the most accurate and comprehensive picture of a newly elected President and his administration. These structural components additionally interplay with more personal, psychological factors attributable to the President and those central to his transition choices. Transitions can be reduced to single elements of explanation, but it is as a whole process that they

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<sup>1</sup> Henry, Laurin L. Presidential Transitions

demonstrate how administrations are constructed and managed.

Recent studies have revealed the influences and impacts of presidential transitions upon the wider world of presidential politics. It is clear that transitions are important determinants in the future prospects of administrations. What is unclear is the way in which transitions should be managed to ensure that the individual is able to master the institution. Successful presidential transitions are not brought about by chance; they are the product of a highly organised, well structured, single minded operation. For reasons both personal and structural, individual presidential transitions produce surprisingly different results every time they are undertaken. History suggests that Presidents do not always take advantage of the resources available to them through transition periods and consequently do not control effectively the transition from presidential candidate to President.

In taking over the levers of power within the executive branch newly elected Presidents have several crucial assessments to make; how they will organise their White House? Who they will appoint to key executive positions and which policy areas are to be made an administration priority? The diversity of these activities means that Presidents-elect are perpetually pulled in different directions. During the election their attention was directed towards a singular goal, victory. Once elected, they no longer have to be campaign specialists but administrative generalists with a capacity to make difficult and conflicting decisions quickly.

In a political system which places so much emphasis upon the ability of the candidate to construct an effective and durable campaign machinery, the period

prescribed in the constitution to undertake the transition into office appears alarmingly brief. The reverse side of this observation, however, is that any extension to the duration of the interregnum would place the incumbent President in an increasingly untenable situation in terms of political capital and authority. Where transitions are concerned, there appears to be no fortuitous situation. This being the case Presidents have to develop mechanisms to make their transitions more profitable in the long term and more effective in the short to medium term.

### **Defining Presidential Transitions**

In attempting to define and classify transitions several obstacles become apparent. Because transitions are so varied and prey to the influences of the individual and the institution, the simplest demarcation has to be the difference between a change in party control of the presidency and a change of the presidency within a party. Intra-party transitions are fundamentally distinct from inter-party transitions and have to be considered separately because there are different sets of assumptions and pressures in place. New administrations of the same party are often viewed as guardians or gatekeepers of the old administration's aspirations and ideas, this limits their ability to embark upon change - the strongest example of this would be the Bush transition of 1988. A similar case can also be made for second transitions when Presidents secure re-election where continuity is often more important than change. Only inter-party transitions reveal the full extent of regime change within the executive branch which is essential to the understanding of the presidency as a central institution of

government and the workings of the political system as a whole. Only in an inter-party transition is the scale of the task and its political importance fully exposed.

Initially it is useful to establish the parameters of the discussion of transitions, their substance and duration. The basis for any initial skeletal definition must be the constitution. As the dates and mechanisms for the election and inauguration of Presidents are laid out within the constitution, there is little ambiguity about the presence and duration of the interregnum. Where ambiguities arise is whether or not the transition can be said to extend beyond the limits of the constitutional interregnum and if so, how it can then be defined.

Transitions are viewed as the process by which new administrations establish themselves and prepare for the authority of the executive office to be transferred from one President to another. However, the duration of the interregnum is recognised by many to be too short. No new administration has completed all the tasks of transition within the meagre eleven week timetable. There is a case, therefore, for suggesting that transitions extend beyond the limits of the formal interregnum and well into the term of office of a new administration. To set an exact date on the duration of transitions is impossible. They are each too individual, a reflection of those involved and of their political time. Transitions can only be said to be over when the administration has established a set pattern of working and is in control of all the levers of power. For some administrations this will take six months, for others they may be well into their first year in office before the administration is seen to be fully functioning and complete. While the beginning of a transition can be measured by the constitutional calendar, the end can only be recognised by political observation



and judgement.

### **Additional Transition Influences**

The conduct of presidential transitions is punctuated by a number of informal deadlines. Some are set by individual Presidents-elect while others are imposed from outside by the wider political community within Washington D.C. The most public and consistently pursued is the 'First 100 Days'. Since Franklin Roosevelt's first 100 days, its flood of New Deal legislation and presidential action, Presidents are now benchmarked for achievement after their first 100 days. Despite attempts to play down the significance of this time period it remains a constant in transition literature and presidential assessment. All new Presidents recognise this fact and respond accordingly. There is also the related notion of a 'honeymoon' period, a brief period of time when Congress and the Washington community in general is supposedly more open to presidential suggestion and are more willing to work with the executive branch. Ephemeral in nature, 'honeymoons' have no guaranteed life span. They can endure for months or evaporate in a matter of weeks. Presidents seek to take advantage of 'honeymoons' in order to achieve appointment and policy success, but they are not essential to the conduct of transitions. A honeymoon is seen as a bonus because not every President is certain to receive one and not every President is able to exploit one. In this time of modern managerial politics the notion of a honeymoon period can be seen to be deeply flawed. The principle of the separation of powers does not allow there to be a marriage between the presidency and the other institutions of government and the sentiment of a

honeymoon is thoroughly passive. What is more appropriate is a 'window of opportunity'. The openness of this window is determined by the skills, resources and actions of the administration rather than being a gift bestowed upon the executive branch from outside. By negotiation, persuasion and the use of all their political skills, Presidents can maintain the window of opportunity well into their terms of office.

The broad outline of the transition is then set. Every newly elected President has the opportunity to construct himself an administration before he is inaugurated, but the building of this foundation is rarely complete before inauguration due to pressures of time and the scale of the task. In practice, the transition process continues into the term of office and in the most extreme of cases it is hard to detect the end of the transition as the President is unable to settle into a single operational style, adapt to the ways of Washington and manage the executive branch effectively.

### **Establishing the Role of Presidential Transitions**

The most interesting feature of transitions is how each individual one is managed, and how this fits into the historical precedents set by previous occupants of the office. In an attempt to bring the consideration of transitions up to date the central focus of this work is a study of the presidential transition of Bill Clinton in 1992 and 1993. As the first inter-party transition since Ronald Reagan's in 1980 and the first Democrat transition since the election of Jimmy Carter in 1976, it affords an opportunity to examine whether and how transitions

are developing, changing and adapting to contemporary political pressures and changing circumstances. By analysing the processes by which this newly elected President managed both the personnel and policy aspects of his transition, it is hoped to demonstrate that transitions remain a significant element within the cycle of American politics and that they remain central to the development of an administration's organising principles. The study will also be used to test further Brauer's main conclusions about the conduct of transitions, how to achieve success and actively avoid failure in the formative months of a new administration. The final aim is to explore whether the last President of the twentieth century has learned any lessons from those who have gone before him.

The main focus of study within the Clinton transition is the system of personnel appointment and the process of policy formulation in the domestic sphere. In policy terms the traditional distinction between domestic and foreign policy has become increasingly unclear in this era of global co-operation and the rise of 'intermestic' issues, but the distinction is an important one to make with reference to transitions, and especially so in the case of Bill Clinton 1992-1993. In his analysis of the presidential policy agenda, Paul Light pinpoints some fundamental differences between the domestic and foreign arenas from a presidential perspective in that,

"Foreign and domestic staffs operate in separate environments; their decision chains move to different departments and agencies; their information contacts are different, their calendars are incompatible, and Congress is more willing to grant presidential discretion in foreign policy than it is domestic policy."<sup>2</sup>

For the Clinton transition such a distinction is also important. Throughout the

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<sup>2</sup> Light, Paul C. The Presidents Agenda: Domestic Policy Choice from Kennedy to Reagan. p. 7

1992 election campaign, candidate Clinton highlighted and heightened concerns about certain areas of domestic policy. This was in direct response to the apparent preoccupation of the Reagan and Bush administrations with foreign policy at the expense of domestic initiatives.

Personnel appointments are a crucial element within the operation of the transition. The majority of the time during the transition is taken up with the search for the right person for the right job. Through their appointments Presidents seek to achieve a number of ends. Appointments send signals to observers both inside and outside the Washington community and can be used as a reward for good service during the campaign or the transition. Alternatively they can be used to thank important constituencies for their support, provide a role for a retired or defeated, loyal/influential Congressman, or fulfil campaign promises about redressing a particular imbalance within government.

Presidents-elect surround themselves with those who share their own goals and ideals, projecting an image of what the administration will be like in the future. Such appointments also provide indications of policy priorities and goals. There appears to be an indissoluble link between presidential appointments and presidential policy priorities. It is impossible to uncover the rationale for one without consideration of the other.

#### **Four Factors for Transition Success**

In his consideration of post war presidential transitions, Brauer identifies four factors which directly influence their performance; proactive preparation for

the transition, the structure of the White House Office, development of a legislative agenda and the ability of the individual to be self-reflective. These factors provide a framework for evaluating the actions of newly elected Presidents and can be tested by their application to a new presidential transition. In light of the changes in American politics since the 1980 transition of Ronald Reagan, are there further ingredients in the transition process which have become as influential as Brauer's four factors?

The first of Brauer's factors is whether or not there is any evidence of pre-election planning for the transition. Pre-election planning has developed because of the increasing scale and complexity of the task ahead. John Kennedy was the first presidential candidate to approach his transition with any sort of preparation. A study into the conduct of transitions was undertaken for him by the Brookings Institution.<sup>3</sup> His own transition experience led him to initiate the Presidential Transition Act (1963) to provide federal funds and facilities for transitions. Previously newly elected Presidents had to reallocate campaign funds or raise new moneys to fund their personnel and policy operations. Kennedy's intentions in formulating this policy and bequeathing a helpful legacy to his successors were undoubtedly considered to be constructive. However, Brauer contends that the availability of federal funds reveals more personal shortcomings in Presidents-elect, which could previously have been blamed on lack of financial resources.<sup>4</sup>

Pre-transition or pre-election planning for transitions can take a variety of forms, but it is predominantly undertaken in secret. Most energy is devoted to identifying possible personnel choices and identifying key personnel positions,

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<sup>3</sup> Brauer, Carl M. Presidential Transitions: Eisenhower Through Reagan. p. 36

<sup>4</sup> Ibid. p.183

rather than making any substantial decisions about the shape and content of the new administration.

Once in office, the second of the factors which Brauer identified comes into effect. It is essential that an effective and efficient White House Office structure be put in place. Inhabitants of the White House Office (WHO) are those closest to the President and are distinct from the larger Executive Office of the President (EOP). The evolution of the executive branch has been such that the WHO has become the centre of policy innovation and deliberation. Presidents increasingly rely upon their personal advisors and policy councils rather than the wider information base of the EOP when making the major decisions of their administrations. The temptation during the transition is to concentrate on the more public face of the EOP and cabinet appointments in the early weeks of the transition. This is an attempt to give the impression of activity and decisiveness. However, despite many rhetorical assurances of a belief in cabinet government, Presidents continue, on a day to day basis, to rely upon their White House staffs rather than their cabinet secretaries. For this reason, it is in a President's best interests to first ensure that his White House is functioning smoothly and facilitating the flow of information to the EOP.

A third element crucial to transition success is the development of a coherent legislative programme. It has been recognised that, without strong presidential leadership, Congress will become distracted and unresponsive to presidential direction.<sup>5</sup> The difficulty for newly elected Presidents is deciding which campaign promises should be converted into policy options. These choices

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<sup>5</sup> Brauer *op. cit.*, p. 27

have to be made in response to several conflicting pressures. Firstly, it is important for Presidents to know the nature of the policy that they are proposing, the end that is sought, and the politically optimal means to that end. Within the US political system, policy ends can be achieved by alternative routes than legislation. Secondly, Presidents have to consider the nature of their electoral victory. Landslide victories present very different policy opportunities than elections where the results are very close or when the vote is divided by three candidates. Regardless of their substance, greater faith is placed in mandates, honeymoons and public opinion following a landslide, and if this is matched with a strong coattail effect on Congress, attitudes towards the White House can be dramatically altered. Furthermore, elections dominated by a single issue require a different policy response than those where issues are more general. Finally, the public mood and any notion of presidential mandate is also influential. Regardless of their position in reality, successful candidates like to believe in electoral mandates and often claim them following election victories. Public opinion is undoubtedly influential, but is difficult to measure in the early weeks of an administration as the public are generally willing to give new Presidents the benefit of the doubt. Public opinion becomes more important over time as presidential decisions come under increasing scrutiny from the public, the media and Congress.

A short cut, which many new administrations find invaluable, is to present old issues in new guises. When there is a change of party control in the executive branch, this tactic is especially useful. Policies, which have been rejected by previous Presidents, but are popular with Congress and the public can be

repackaged and introduced at the beginning of the new congressional session. This allows Presidents to claim early legislative successes for their administration and give to the impression of activism and co-operation with Congress. Moreover it gives them valuable breathing space to work on less well prepared policy issues.

Legislative success is not automatic and honeymoons are not assured or indefinite. Presidents have to pursue actively legislative success. From the day after election, influence and political capital begin declining - "the policy cycle of decreasing influence"<sup>6</sup>. Newly elected Presidents have to begin by presenting a coherent set of policy issues for congressional response. For many administrations, this is the toughest part of the transition. Senior cabinet positions have been filled, but now require Senate approval and White House policy structures are still very vague. In order to increase their chances of pushing policy through Congress, they have to ensure that there is an effective process of legislative liaison. It is also essential that those working in legislative liaison are experienced in dealing with Congressmen and their staffs. Many new administrations falter through lack of effective congressional liaison.

A coherent policy programme is likewise essential for setting the tone of the administration. The assessment of presidential performance begins in the early stages of the transition. Successes, which come early in the term of office, bring about perceptions of general transition success. The odd policy or personnel mishap equally brands the transition as ineffective, failed or flawed. For these reasons it is essential that the presidential candidates prepare themselves and those

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<sup>6</sup> Light op. cit., p.36



around them to arrive in Washington “hitting the ground running”<sup>7</sup>.

The final factor which Brauer identifies as being influential in transition performance is the ability of the individual seeking office (and when in office) to assess their own strengths and weaknesses. Every presidential candidate brings with him a different set of experiences and skills but no previous career prepares a candidate for the presidential election or for the office. Therefore, the key to success is emphasising personal strengths and compensating for weaknesses. This can be achieved through appointments and structure within the executive branch, but the first step towards this is actually recognising that such adjustments need to be made. Brauer notes that in the weeks after the election “confidence, hope, sometimes arrogance, hubris and a sense of infallibility run high”<sup>8</sup> and this scenario invariably leads to clumsy mistakes. Furthermore, newly elected Presidents rarely turn to history to aid them through their transition. It is unusual for a new office holder to learn from the mistakes of his predecessor. It is more likely that he will make every effort to further distinguish himself from the incumbent and overreact to perceptions of weakness such as lack of ideology, or a ‘hands off’ management style.<sup>9</sup> This attitude is generally not confined to the President or the WHO, it can be seen in many of the relationships which develop between EOP staff and their permanent civil service colleagues in the executive branch departments. As there is little which can prepare a candidate to be President, the learning curve which they experience is particularly sharp, and Brauer urges newly elected Presidents, to take advantage of every possible

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<sup>7</sup> Pfiffner, James P. The Strategic Presidency: Hitting the Ground Running. p. 7

<sup>8</sup> Brauer op. cit., p. 258

<sup>9</sup> Ibid.

resource, especially the experience of predecessors.

### **Assessing the Clinton Transition**

With this in mind, this analysis of the Clinton transition further tests Brauer's assumptions about the conduct of transitions. The initial starting point is a brief survey of the transitions of Presidents Carter and Reagan. These transitions provide useful and natural comparisons as the last Democrat and last inter-party transitions. Their style and substance are explored in terms of Brauer's theory and conclusions are drawn about the nature of their success or failure in transition management. This is complemented by an overview of the Clinton approach to the 1992 presidential campaign and the structure and character of his transition in terms of personnel appointments and policy priorities. Four policy case study chapters are used to illustrate the linkages between personnel selection, legislative agenda and executive branch structure. These policy areas have been chosen to reflect the full extent of the Clinton domestic policy agenda in early months of his presidency; national service legislation, economic stimulus programme and the budget, health care reform and the use of executive orders as a legislative tool. Equally, these policy areas are a reflection of the promises that were made to the American people during the 1992 election and are, therefore, illustrative of the President's ability to select and deliver on campaign promises. The themes and linkages which are revealed in these four chapters are pulled together in the penultimate chapter to establish trends in the Clinton transition that cut across issue areas. Finally conclusions are drawn about

the nature of Clinton transition and its impact upon the conduct of his presidency.

The Clinton transition is an important episode in American political history. A thorough analysis of its foundation and conduct is warranted due to the changing nature of the presidency following the Reagan era. The management of massive federal deficits and the post-cold war international climate places new pressures and limits on the institution. Therefore, by investigating the link between personnel selection and policy priorities in the Clinton transition, it is hoped to confirm that transitions remain an important formative element in the development of the executive branch's ability to cope with change. Moreover this analysis will add to our understanding of presidential transitions and their place in the wider picture of presidential politics.

## **Chapter 2: Survey of Presidential Transitions**

## **The Carter Experience.**

The presidency of James Earl Carter has received various assessments since the 1976 election. At the forefront of these analyses are judgments about his personal ability to fulfill the role of President and how this impacted upon the actions of his administration. The mid 1970s has been chronicled as one of the most tumultuous periods in American political history, and at the centre of this crisis was public disillusionment with federal government in general and the executive branch in particular. The Watergate scandal rocked the very foundations of American's citizens' perceptions of their major political institutions.

The Ford presidency was unable to repair any of the damage in the time available to it, and therefore, the presidential election in 1976 was in part a quest for an antidote to the sickness that had overcome the presidency. James Earl Carter envisaged the cure to be a candidate who was removed from the dirty world of Washington politics. Throughout his election campaign Jimmy Carter unashamedly emphasised the fact that he had no links to Washington; that his background was humble and homey in contrast to most other politicians, who were experienced and knowledgeable in the ways of Washington D.C.. Jimmy Carter offered, what appeared to be, a fresh and untarnished approach to government.

## Carter and the 1976 Presidential Election

Further strengthening his outsider status, Carter organised his campaign outside the Democratic Party. The Carter campaign machine was staffed by the same young and enthusiastic individuals who had been central to his governorship of Georgia. Moreover, Carter pursued what was viewed as a populist theme, reaching out directly to the American people promising to restore the linkages between the citizen and the government through openness and truthfulness.

In addition to perceptions of a government racked with corruption and secrecy, there was also the belief that the federal government had become over bureaucratized. This raised issues of how to manage government; how to make it more responsive to the needs of ordinary citizens. In response to this, the overarching theme of the election became honest competence. Carter's own experience of managerial reform as Governor of Georgia allowed him to play the competence card against an administration struggling to cope with the legacy of the Nixon years.

Finally for Carter, the keystone of his campaign and the force that underpinned every other element was morality. Carter, a southern, evangelical Christian, injected morality into every aspect of his campaign. Not as one would recognise morality in terms of the New Christian Right - who were just gaining in popularity in the late 1970s - but morality in terms of what was good and right rather than what was "politically possible or expedient".<sup>10</sup> This is central to understanding Carter's presidency and the choices he made.

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<sup>10</sup> Kaufman, Burton I. The Presidency of James Earl Carter Jr. p.2

The final vote was one of the closest in post war presidential election history. Carter received 50.1% of the popular vote (41 million votes) which translated in to 297 Electoral College votes, as compared with 48% (39 million votes) 240 electoral college votes for the incumbent. Carter had won the election, but lacked a resounding mandate from the American people in a year of low voter turnout. Moreover, his victory was constructed around a very personal coalition with a strong southern and north eastern bias. The narrowness of this victory was compounded by the nature of the campaign. Having identified himself as a outsider, Carter's anti-Washington campaign alienated many legislators, and those who had been swept to office in response to Watergate did not owe their success to the coattails of Carter or the Democratic party. Carter had hoped to transcend politics, but would be reliant, as all Presidents are, on congressional co-operation and support for his own legislative agenda.

In the case of Jimmy Carter the experiences of his transition would be a reliable barometer for his four years in office. His approach to his transition set the pattern for his approach to the presidency, and only too late did he learn from the experiences of his predecessors.

### **Transition and White House Structure**

During the election campaign Jimmy Carter did undertake some preparation for his transition. Funds diverted from the campaign effort were used to establish a group of fifty people under the directorship of Jack H. Watson, Jr. Watson had worked with Carter in Georgia, but was not one of his closest

advisors or confidants. The Talent Inventory Program dedicated itself to policy planning and personnel selection, but its existence caused a rift in the Carter organisation. The diversion of valuable campaign funds alienated campaign workers, and the perceived power of those establishing the personnel lists caused a rift between the two sets of Carter loyalists. A well documented power struggle between Watson and Hamilton Jordan - Carter's campaign chief - ensued with Jordan ultimately securing the lion's share of access and responsibility during the transition as he claimed responsibility for personnel selection. Watson continued to oversee policy planning but never effectively gained the ear of the President or a place among Carter's intimates. The existence of the Watson group and their experience during the campaign and the transition are illustrative of a number of things. Firstly, that planning was central to Carter's conception of the presidency, secondly, that Carter was less concerned with the actual operation of the system than its design, and finally, that his style of management would be incompatible with the institutional and personal requirements of the executive branch.<sup>11</sup>

Carter based his managerial ideas upon his experiences as Governor of Georgia, believing that the same principles could be applied to the White House. Having always been at the centre of the decision making process with aides and advisors having direct access to him he wanted to continue this pattern in the White House. Rejecting the hierarchical system employed by Presidents Eisenhower and Nixon, he preferred the more open working environment that was said to exist in the Roosevelt and Kennedy White Houses. He did not appoint a chief of staff preferring to fulfill that role himself, maintaining a 'spokes

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<sup>11</sup> Brauer, *op. cit.*, p. 180-2



of the wheel' managerial structure, with himself at the centre. While not fatally flawed as a blueprint for success, it can be seen to be naive in the extreme. As Governor, Carter managed no more than half a dozen personal staff, as President he would be expected to manage several hundred in addition to the wider executive branch community. In addition to this managerial strategy, Carter pledged to operate a system of cabinet government whereby White House staff would not undermine or usurp the authority of the cabinet departments.

The rationale for these structures also owes some credit to the experience of government under the Nixon and Johnson administrations. Carter was essentially reacting to the shortcomings of his predecessors. It had been recognised that secrecy and closed working practices of the Johnson and Nixon administrations had added to public and congressional disenchantment with the presidency and this was Carter's attempt to redress those concerns. In doing so he raised more anxieties about the effectiveness and competence of his own White House when the structures in place were found to be unresponsive and inefficient.

### **Executive Branch Appointments**

In seeking to fill positions within his administration Carter made certain promises. As a candidate, he pledged to bring to Washington individuals who would be new to the federal government, but in effect, once the senior cabinet positions had been filled, what emerged was a collection of Washington insiders who had considerable experience under previous Democrat administrations. A second promise to bring greater geographic, racial and gender diversity was

fulfilled as each senior position was required to have a woman and a person of colour under consideration. These criteria were not, however, matched in the White House where Carter continued the trend of appointing members of his campaign staff and close personal friends to senior White House positions. In many respects Carter fell into this trap more seriously than his predecessors as so few of those with whom he had worked in Georgia had any Washington experience. Of his most intimate advisors only one, Stuart Eizenstat, could boast any familiarity with the ways of Washington.<sup>12</sup> This placed Carter in a very weak position vis a vis the wider Washington community and Congress in particular. Unfamiliar with many of the protocols that apply to members of Congress, the President-elect and his new administration ruffled the feathers of many influential Congressmen and their staffs.

In defence of Carter's actions, his intention for much of his presidency was to bring the institution back down to earth; to reduce the ceremonial nature of the executive branch in order to make it more efficient and responsive. This was most visible at his inauguration when he eschewed the usual cavalcade of limousines in preference for a stroll to the Capitol. While a revelation to the public, this strategy diminished the privileges available to individuals such as members of Congress who took the administration's actions as a more personal affront to their status and position in government than an attempt to reclaim the presidency from its tarnished image.

In addition to critiques of Carter's personal staff, the transition was also heavily criticised for some of its cabinet choices. Initially, the critical pace of

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<sup>12</sup> Brauer, *op. cit.*, p.195

appointments was berated. In comparison to his predecessors, Carter's appointments process was slow, probably due to the infighting and conflictful transition structure. More seriously, the suitability of certain individuals selected to fill senior administration positions came into question. In particular, attention centred upon Carter's selection for Director of OMB, Bert Lance, Theodore Sorenson as CIA director and Griffin Bell as Attorney General. Lance survived high pressure scrutiny from the Senate Governmental Affairs Committee, as did Griffin Bell from the Senate Judiciary Committee. However, Theodore Sorenson withdrew from consideration following opposition to his appointment from both sides of the Senate due to his conscientious objector status and his use of classified documents in writing his acclaimed book about John Kennedy.<sup>13</sup> These troubles cannot be considered to be unusual, every President experiences some difficulty with appointing some individuals. What is important is how much this is allowed to influence the actions of the administration and whether perceptions of poor management remain once the crisis has passed.

### **The Legislative Agenda**

The second major area of transition activity revolves around the identification and selection of policy options. Like personnel appointments, decisions surrounding the policy agenda are prey to a variety of influences. New administrations have to consider the promises that were made during the campaign, and which policies are desirable and possible once in the White House.

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<sup>13</sup> Brauer, *op. cit.*, p. 190

There is often a large disjunction between what administrations want to achieve and what they can do. The skill during the transition is to determine which policies have to be abandoned and which can be vigorously pursued. The 1976 election prompted Jimmy Carter, like all presidential candidates, to make certain promises to the American people. His domestic agenda was broad in its scope and typically Democratic in its substance. He promised reforms, which would affect both the citizen - health, welfare and tax - and government - civil service reform and government re-organisation. In an attempt to boost the flagging economy he proposed a jobs programme, de-regulation of major industries, an energy programme and a balanced budget.<sup>14</sup>

Carter's policy agenda was bold and adventurous at a time when Congress was looking to reduce the power of the President and reassert its own position. After a promising start with a number of strategic successes - Natural Gas Act, Anti-Recession Fiscal Assistance Act - the fortunes of the administration took a down turn. Assessments of Carter's policy choices catalogue a series of disasters and misfires.<sup>15</sup> Many of these were of the administration's own making and reflected its naiveté toward the Washington process. The American legislative process is fundamentally incremental, dramatic switches in policy direction and the introduction of new ideas do not fit comfortably with the complex system of congressional committees and sub-committees. Furthermore, a variegated policy agenda puts additional stress on the legislative process, which is often unable to cope with several policy options at one time.

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<sup>14</sup> Abernathy et al. The Carter Years: The President and Policy Making. p 13

<sup>15</sup> For a full account of the negative coverage of Carter's transition see Dumbrell, John W. The Carter Presidency: A Re-Evaluation. pp. 9-11

This is exactly the situation that the Carter Administration faced when it started to introduce their policy centrepiece, energy legislation. The national energy plan became a leviathan. Having promised a proposal within the first 100 days Carter had already set himself a virtually impossible task. Even after being granted emergency powers to balance the nation's energy requirements during the extremely cold winter of 1977, the future of energy legislation was by no means certain. While the House accommodated Carter's diverse piece of legislation by passing it through an ad hoc committee, the Senate had to consider it through its permanent committees and proceeded to dissect it into manageable pieces. The differing personalities of the committees and their chairmen guaranteed that the legislation which emerged into the conference committee in no way resembled Carter's initial proposal or the House version. The final version of the National Energy Act<sup>16</sup> was signed into law on 9 November 1978 some 18 months after it was first introduced to the House of Representatives; not the desired fate of an administration's legislative centrepiece.

What was troubling for the Carter Administration was not just that the energy legislation was delayed, but that it had a knock on effect on every other presidential initiative. The system could not cope with the complexity and variety of legislation. Furthermore an inexperienced and aloof White House compounded problems of poor communication and lack of co-operation between the executive and legislative branches.

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<sup>16</sup> For an account of the problems associated with and short comings of the National Energy Act see: Uslaner, Eric M. "Energy Politics in the USA and Canada." *Energy Policy*, Vol. 15, No. 5 (1987)

## Transition Success or Transition Failure?

An overall assessment of Carter's transition would have to acknowledge that he was less than successful in managing his take-over of government. Some observers maintain that any President who faced the political climate which confronted Carter in 1976 and 1977 would have had similar problems.<sup>17</sup> The combination of weak political mandate, resurgent Congress and public scepticism of government placed any new President in an intractable position. However, Carter's own more personal influence appears to be a stronger explanation for his poor transition performance. His conception of the office and his place within the institution was incompatible with the practicalities of the modern chief executive. To his credit, he did plan for his transition, but not in a formalised way which would provide a structural basis for his transition. However, his White House structure was only put in place after he had selected the more public faces of his administration, and the structure was one which emphasised his own weaknesses; lack of Washington knowledge and the tendency to micro manage. Finally, his legislative agenda was not coherent or sharply defined. Carter diluted his resources by embarking upon a broad and adventurous agenda. Rather than developing a focused set of legislative proposals, he attempted to deal with all the problems which confronted him. In attempting to give the American people a more thoughtful and ethical government, Jimmy Carter created the impression of a presidency disconnected from the rest of the political system and unable to deliver on its promises.

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<sup>17</sup> Hargrove, Erwin C. Jimmy Carter as President: Leadership and the Politics of the Public Good, p. 192

The intervening four years of the Carter presidency ensured that the 1980 election was no longer about national healing in the wake of political scandal. Abroad, the Iranian hostage crisis struck at the very heart of American perceptions of their declining international influence. At home, what can only be termed a malaise had befallen the presidency. The normal yardsticks of presidential performance, the shape of the economy and foreign relations, led voters to bestow the Carter presidency with overwhelmingly negative evaluations. As the incumbent, Jimmy Carter became the victim of retrospective electoral judgments.<sup>18</sup> His presidential record spoke for itself, and candidate Reagan could exploit that by promising wholesale change and a new style presidency with little personal risk. Ironically twelve years later Reagan's gatekeeper, George Bush, would be the casualty as American voters passed their judgment on three Republican presidential terms.

### **The Reagan Experience**

The most distinctive element of the Reagan campaign and administration was its conservatism. Conservatism was not unfamiliar to Americans, but what came to be known as the New Right, revolutionised politics in the US in the early 1980s. The principles of individual freedom and market forces were the defining elements of the Reagan policy agenda. During the campaign, transition and his presidency, personnel and policy choices were directed by a strict adherence to these principles and the ideology which they underpinned. Reagan's brand of

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<sup>18</sup> Key, V.O.: The Responsible Electorate.

conservatism was unfamiliar territory for many Americans, but its emphasis on traditional values, both economically and socially, brought him a loyal following which cut across many of the established electoral cleavages. Additionally, he dispelled many fears about ideological leadership with his own affable and agreeable personal style. It was a synthesis of these elements which led to personal success for Reagan in his first presidential term and institutional renovation for the US presidency.

### **Reagan and the 1980 Presidential Election**

The foundations for the Reagan presidency can be traced back to a variety of experiences throughout his life. While most commonly associated with his Hollywood career, he also dabbled in politics as President of the Screen Actors' Guild, active involvement with the anti-Communist hearings of Senator McCarthy and, more significantly, during his two terms as Governor of California. Reagan had actively sought the Republican presidential nomination in 1968 and 1976 but was unable to attract sufficient support to defeat Nixon and Ford. His nomination in 1980 was met with jubilation from the Carter campaign, as he was perceived to be a weak candidate.<sup>19</sup> The Democrats' election failure in 1980 resulted in part from their underestimation of candidate Reagan. His experiences as twice elected Governor of a major state and his ability to project a popular public image allowed him to construct an effective and efficient campaign machine.

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<sup>19</sup> Brauer, *op. cit.*, p. 219



Despite all these positive aspects to his campaign, there were serious doubts about Reagan's suitability to be President. The majority of these doubts rested on his age, his lack of national government experience and his close association with the far right of his party.<sup>20</sup> However, his personal style and clever use of modern campaign techniques overcame these obstacles and delivered campaign victory. The overall shape of the 1980 election and Republican Congressional gains led to speculation about a realignment in American politics, but more significantly it allowed Reagan to lay claim to a broad mandate and assume party control in Washington. With only a bare majority of the popular vote, Reagan's victory was no landslide and his mandate was at best ambiguous, but he was able to exploit the post election mood and move swiftly on a concise and coherent legislative agenda.

The 1980 election was a crashing defeat for the Democrats in both presidential and congressional terms as they lost control of the Senate and faced a greatly reduced House majority. However, Reagan's victory was not the landslide that the Electoral College votes initially showed. His electoral appeal was broad based and consistent throughout the country. The popular vote more clearly reflected that not everyone was ready for the Reagan revolution. Reagan received 50.7% to Carter's 41%, with a third candidate, Anderson, taking the remaining votes. It has also been observed that 1980 was a continuation of the trend for American voters not to vote - 55.1% turnout - and to demonstrate no strong party allegiance.<sup>21</sup>

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<sup>20</sup> Mervin, David. Ronald Reagan and the American Presidency. p.81

<sup>21</sup> Dallek, Robert. Ronald Reagan: The Politics of Symbolism. p.60

Reagan's conduct as a candidate and a newly elected chief executive can be traced back to his successful bid for the California governorship. It is widely documented that his first few months in Sacramento were less than successful. He arrived at the Governor's mansion having made no preparation for staffing or a legislative strategy and possessed no understanding of the workings of California State politics.<sup>22</sup> Over time this was remedied and Reagan established a relatively successful administration, which adapted to work with the Assembly to achieve well defined policy goals such as welfare reform. Mervin identifies Reagan's greatest attributes to be his ability to learn from his past mistakes and his pragmatism, willing "to settle for half a loaf rather than nothing at all".<sup>23</sup> It can be seen that the foundation of his managerial style was established in California.

### **Transition Structure**

Unlike many of his predecessors Reagan approached his transition with considerable organisation. Recognising his status as a Washington outsider Reagan involved himself in fund raising for Republican congressional candidates through the political action committee, Citizens for the Republic, during the late 1970s. This was a shrewd move at a time when the Republican Party was at a low ebb following Watergate. More directly associated with his election his transition planning was "modest in scope and clandestine in style".<sup>24</sup>

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<sup>22</sup> Mervin, *op. cit.*, p.77

<sup>23</sup> *Ibid.* p. 78

<sup>24</sup> Brauer, *op. cit.*, p. 225

Accommodated in an office building in Alexandria, the planning team concentrated on identifying which positions within government would be filled, required qualifications for appointments and lists of prospective candidates. After the election more detailed research into the nature and operation of cabinet departments was undertaken by special task forces. All of this transition planning was placed in the hands of E. Pendleton James, Nixon's personnel director and close personal friend of Reagan intimate Edwin Meese. Many of those who had been close to Reagan in California and in his previous presidential bids were at the centre of the campaign and transition organisation. However, Reagan did not make the same mistakes as Carter in surrounding himself with a California mafia. Appointments to the EOP and the WHO drew from the experienced ranks of the Nixon and Ford White Houses. Recognising his own weakness in terms of Washington knowledge Reagan constructed an administration of considerable Washington experience.

### **Executive Branch Appointments**

Unlike his predecessor, Reagan made few promises about the shape of his new administration. The usual criteria of competence and experience were augmented with ideological and personal loyalty to Reagan. No previous administration had placed so much emphasis upon ideological conformity. This would, however, prove to be one of the strengths of the administration in terms of controlling the nature and substance of policy decisions. The benefits of ideological conformity centred around the notion of the whole administration

‘singing from the same hymn sheet’. Previous administrations had experienced considerable difficulties in controlling their own appointees and career civil servants. Appointees often felt disconnected from the White House because of weak communication links between the departments and the President’s closest advisors. The Reagan White House sought to minimise this disconnection through strict control of all appointments, even to the lower levels of cabinet departments, and by the establishment of a cabinet council system. Cabinet councils were designed to give Cabinet members more involvement in policy making decisions by putting them in direct and regular contact with the President and his most senior White House advisers.<sup>25</sup> Additionally, they allowed the administration to work on policy issues which would usually cut across departmental boundaries.<sup>26</sup> The ultimate benefit of this system was that the White House continually reinforced loyalty ties between political appointees and the President, preventing the phenomenon of Secretaries and their subordinates ‘going native’ in support of their department’s agenda.

The development of this cabinet system directly complemented Reagan’s personal management style of collegiality and discussion. It also facilitated his preference for delegation. Reagan adopted a Chairman of the Board position allowing his most trusted lieutenants considerable scope. Unlike the Nixon White House, this trust was not placed in the hands of one individual. Reagan’s ‘troika’ of advisors consisted of James A. Baker III - Chief of Staff, Edwin Meese III -

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<sup>25</sup> The five initial councils were: Economic Affairs, Commerce and Trade, Human resources, Natural Resources and the Environment, Food and Agriculture. Legal Policy and Management and Administration were added in 1982

<sup>26</sup> For a fuller consideration of the Cabinet Council system see Lees John D. and Michael Turner Reagan’s First Four Years: A New Beginning? p.46 - 53

Counselor to the President, and Michael Deaver - Deputy Chief of Staff.<sup>27</sup> Their presence in the White House, and therefore its structure, was announced within days of the election and they steered the most complex transition machine ever seen. Despite its complexity it achieved results and worked effectively towards both personnel and policy goals. This did not, however, ultimately speed up the appointment process, which was slower than any previous administration. In part, this can be explained by the passage of the Ethics in Government Act (1978) which tightened the regulations regarding conflict of interest and financial disclosure for appointment nominees. Additionally the White House maintained very strict control over some 2000 sub-cabinet level appointments, ensuring that there was no dilution of the administration's ideological commitment from the bottom up.

The most public face of his administration, his cabinet secretaries, were representative of the broad range of Republicanism. It has been noted that "Reagan's Cabinet was not much different in character from those of his recent Republican predecessors; Eisenhower, Nixon and Ford."<sup>28</sup> Moreover, the most distinctive factor about his appointments was their business experience rather than their Washington experience. Those with considerable Washington experience or more extreme political opinions were most likely to occupy sub-cabinet level appointments to consolidate Reagan's control and to promote a moderate veneer to the American public.

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<sup>27</sup> For a fuller account of the background and role of Baker, Meese and Deaver see Dallek p.75-78

<sup>28</sup> Lees & Turner, op. cit., p. 55

## The Legislative Agenda

As previously mentioned, Reagan's presidency was strongly underpinned by an ideological commitment to traditional values. Campaign rhetoric simplified Reagan's message, "shrink the power and control of government and increase the freedom of individuals and private enterprise."<sup>29</sup> Reagan turned his attention to economic policy and his own particular brand of policy was christened 'Reaganomics'. Central to his plan to rectify an economy dogged by problems of high unemployment, inflation and interest rates was a departure from the Keynesian approach to economic management. Rather than reliance upon demand as the defining principle of economic management, Reagan and his advisers believed that by boosting supply the economy would flourish. By freeing the people and business from the burdens of taxation, government regulation and social spending there would be an expansion of economic activity. Market forces would regulate the economy and the role of the state would be all but eliminated.

The economic strategy had four main elements; the reduction of taxation, decreases in public spending, government deregulation and the establishment of a sound monetary policy. Much of this was consolidated by the first Reagan budget, which received swift passage through Congress following an assassination attempt in March 1981 and soaring public approval ratings. Further tax cuts were endorsed by a slightly more reluctant Congress in July; "the law gave generous tax breaks to the oil industry; savings and loan associations; recipients of unearned income on stocks, bonds and real estate; married couples with two incomes; all

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<sup>29</sup> Dallek, *op. cit.*, p. 63

corporations; and people who owed inheritance or estate gift taxes.”<sup>30</sup> It is clearly evident that those who benefited most from Reagan’s legislative success were the wealthy.

Those Americans most dependent upon the state for support experienced severe cut backs in existing federal programmes. Criteria for the participation in programmes such as Medicaid and Aid to Families with Dependent Children were tightened reducing the numbers eligible to claim. Tax breaks did little to supplement the income of the working poor and many of the most vulnerable Americans found themselves to be less well off as a result of Reaganomics.

This style of economic policy was complemented by a new social agenda. While believing that the role of the state should be removed from the lives of the American people Reagan and his administration sought to redress the social liberalism which had infused American culture. His cultural conservatism rested upon traditional, often religious morality and covered issues such as school prayer, homosexual rights, affirmative action and abortion. By using the full scope of his executive powers Reagan attempted to deal with these issues through judicial appointments to the federal bench, including the Supreme Court. The most public of these appointments was that of Sandra Day O’Connor (first female Supreme Court Justice) in 1981. In part he was successful in changing the face of the judiciary, but was less successful in securing fundamental change in abortion and equal opportunities legislation.

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<sup>30</sup> Ibid p. 69

## **Transition Success or Transition Failure?**

The process of the Reagan transition conforms to Brauer's four essential transition elements. He embarked upon planning for his transition prior to the election; established the structure of his White House in the very early days of the transition in order to promote order; developed a coherent and focused legislative agenda; and recognised many of his own weaknesses when constructing his administration. It is for these reasons that the Reagan transition is seen as a blueprint for transition success. In terms of presidential success judgments of the two Reagan terms can also rest upon the legacy he left for future Presidents and generations of legislators. Budget deficits, which seemingly defied control and a military-industrial complex reliant upon federal support, bequeathed an economic legacy which has consistently limited subsequent presidential action. The presidency, which Bill Clinton embarked upon in 1992, was fundamentally more economically constrained than that which faced Carter in 1976 or Reagan in 1980.

## **The Clinton Approach**

As with both Carter and Reagan the nature of the 1992 election directly shaped the transition and early presidential experiences of the newly elected Bill Clinton. The election was dominated by the presence of a highly visible third candidate, Ross Perot, who gained the largest percentage of the popular vote of a third party candidate in modern presidential election history. This 19% approval denied candidate Clinton of electoral majority - he received only 43% of the



popular vote - and deprived him of an convincing electoral mandate. Much like Reagan in 1980, however, he utilised the divided vote and claimed a mandate for change from the American people. The issues which dominated the stage in 1992 departed from the usual electoral concerns. Foreign policy success is often of great benefit to incumbents, but in 1992 the voters all but forgot President Bush's handling of the Gulf war and the end of the Cold War. More general and domestic issues such as the federal deficit, global economic competition and rising health care costs captured their attention. These issues even took on greater relevance than pocket book considerations such as taxation and personal finance.<sup>31</sup>

### **Transition Structure**

In addition to running a very successful campaign organisation, Bill Clinton also took a very positive approach towards his transition. Like Carter and Reagan he established a pre-election planning team for his transition. The Pre-Transition Advisory Board was formed during the middle stages of the presidential campaign, before he had secured the Democratic nomination. In order to fully prepare for the transition, the role of the Pre-Transition Advisory Board was three fold. Firstly, they were seeking suitable candidates to fill political positions within the new administration. Secondly, they were investigating the current institutional and administrative situation, and finally

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<sup>31</sup> Miller, Arthur H.: "Economic, Character and Social Issues in the 1992 Presidential election". American Behavioural Scientist. Vol. 37 No. 2 (1993) p.321

assessing how this climate would fit with the Clinton policy agenda.<sup>32</sup> Recognising that overt transition planning would smack of over confidence, the activities of the groups remained low key and distinctly separate from the campaign organisation.

In addition to the desire to keep the planning activities out of the spotlight of the campaign, there was another, more practical, reason for the division of labour between campaigning and planning organisations. The difference between campaigning and governing is vast, transitions often fall foul of the expectation that the same group of people can be used to facilitate both operations. Separating the two functions promoted a structure designed to make the most effective use of the resources available to candidate Clinton. Moreover, separating the groups was thought likely to reduce the likelihood of infighting as functions and responsibilities were clearly delineated.

This separation distinguishes Clinton's Pre-Transition Advisory Board from the organisation of the Reagan pre-transition planning group. Only one member, Mickey Kantor - campaign manager, had any close links to the campaign organisation. The six member team was comprised of: Warren Christopher, Vernon Jordan, Henry Cisneros, Mickey Kantor, Madelein Kunin and Thomas McLarty. They represented a mixture of policy and Washington specialists and those with little 'inside the beltway' experience but who were close to Bill Clinton and had his trust. Following the election all these individuals took up positions within the transition organisation, and only Vernon Jordan did not remain with the administration after the inauguration.

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<sup>32</sup> Fessler, Pamela. "Clinton Plans for Smooth Start With Focus on the Economy. CQWR. 7/11/92 p.3554

The most senior transition positions were filled by the members of the Pre-Transition Advisory Board. Members of the campaign staff did move into new positions within the transition organisation, but none of them were able to achieve the same levels of influence that they enjoyed during the presidential campaign. Despite attempts to delineate between old campaign staff and transition staff, turf battles initially plagued the transition team as individuals vied for seniority. During the campaign, a similar situation arose when staff found themselves blighted over seniority due to a poor organisational structure, too many titles and overlapping responsibilities. Decision-making was a slow process and emerged by consensus or not at all. To solve many of these problems, the campaign team was reorganised in June 1992. Despite these problems, Clinton delayed structuring the transition team until the end of the week following the election. Warren Christopher was selected to oversee the transition of power in the White House and Vernon Jordan was given responsibility for all other transition functions. This delay was crucial to the progress of the transition, especially in terms of public perceptions. From the very outset of the transition it is essential that Presidents-elect give the impression of activity and organisation. The Clinton transition initially stumbled at this stage.

### **Executive Branch Appointments**

The earliest activities of the transition were dedicated to filling appointments. As previously mentioned, all Presidents have specific criteria that they employ to select appointees and these criteria serve particular goals. For

Clinton the principal goal was diversity. During his campaign he had promised to bring diversity to government, increasing the number of women and ethnic minorities, delivering a cabinet which would better represent the ethnic make-up of American society. The appointment criteria were encapsulated into EGG; ethnicity, gender and geography. In addition to this far reaching goal Clinton declared of his own staff that they must be "Smart, energetic and...care about ordinary Americans" also they must have a "high sense of ethical and moral standards".<sup>33</sup> Clinton's attachment to diversity can be traced back to the campaign, where he sought to construct a coalition of minority groups - women, homosexuals and ethnic minorities and the 'forgotten' middle classes. This electoral coalition directly shaped the new administration's personnel choices. Following the election victory, these client groups began to exert pressure for an indication that the promise of diversity would be fulfilled.

The process of filling political appointments in any new administration attracts considerable attention from all areas of the political and public community. The speed with which the new administration announces its nominations for particular cabinet positions is often used as an indicator of transition efficiency and organisation. It is therefore preferable for Presidents-elect to lose little time in announcing early appointment choices. Clinton's first cabinet selections were announced on December 10, 1992. These early appointees would give a strong indication of the style and substance of the administration, and therefore, much critical attention was directed towards them. Focusing on economic and domestic policy, the main issue areas of the

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<sup>33</sup> "How I will change the country - Clinton" The Guardian 24/11/92

presidential election, Clinton demonstrated his intention to continue working towards fulfilling campaign commitments of deficit reduction, job creation and industrial investment. Furthermore, the individual appointees reflected a desire to work with the Washington establishment, but also to bring business acumen to government. Lloyd Bentsen, veteran Senator, was the new administration's nominee for Treasury Secretary and Representative Leon Panetta was selected to head the Office of Management and Budget. Both men possessed extensive experience of working within congressional finance committees.

The new administration's commitment to economic policy was further consolidated by the creation, by Executive Order, of the National Economic Council - an equivalent executive agency to the National Security Council. The head of this agency was announced, along with other appointments in the economic policy area, as Wall Street investment banker, Robert E. Rubin. The appointment of deputies to Bentsen and Panetta continued to emphasise the link between government and business; Roger Altman left Wall Street to become Deputy Treasury Secretary and Alice Rivlin, former director of the Congressional Budget Office and Brookings Institution scholar, stepped into the number two position at the OMB.

December 11 witnessed the announcement of the next group of nominees. These appointments were a reflection of the importance of certain domestic policy issues areas to the incoming administration; Robert Reich as Secretary of Labor, Donna Shalala as head of Health and Human Services, Carol Browner at the Environmental Protection Agency, and Laura D'Andrea Tyson as chair of the Council of Economic Advisors. All these appointees had extensive experience

inside and outside Washington making them no strangers to the national policy process. However, what differentiates them as a group, from the nominees for economic appointments, is that they represented an attempt to fulfill the diversity claims of the many constituencies which Clinton had courted. Furthering that aim, the December 12 announcement of Democratic National Committee Chairman, Ron Brown, as head of the Commerce Department and the December 17 announcements of Henry Cisneros, Mayor of San Antonio, as Secretary of Housing and Urban Development and Jesse Brown as Secretary of Veterans' Affairs, confirmed that President-elect Clinton was delivering the diverse cabinet that he had promised.

### **White House Appointments**

Clinton's progress in assembling his administration had not reached the lightning speed achieved by President Carter, but was by no means slow. What was not apparent, however, was an emerging White House structure. Every transition has its own sense of timing but, in general, successful transitions result when the structure within the White House is established early. Both Reagan and Nixon appointed their Chief of Staff early in the transition in order to help them with the personnel and policy process as a whole. Clinton, moving away from this tradition, waited until December 12 to appoint his own Chief of Staff, Thomas 'Mack' McLarty. McLarty, a Clinton childhood friend and industrial executive, experienced the steepest learning curve of any administration appointee. The role of Chief of Staff has become increasingly important within the White House as a

result of the growth of presidential responsibility. As a quintessentially insider role it is thought that the most successful appointees are those with extensive political government experience, in the White House, in Congress or at state level. Having none of those attributes, the appointment of McLarty sent a number of signals to the Washington Community. Firstly that Clinton seemed to have every intention of being his own Chief of Staff and that McLarty would not play the traditional gatekeeper role of recent holders of that office. Furthermore the close relationship between the two men guaranteed that the White House under Clinton would be very different from that of his immediate predecessors.

In general, Presidents-elect hope to have the nominees for their top appointments ready for confirmation by inauguration day. Clinton aimed to have his nominations ready by Christmas and on December 24, announced his final group of appointments. Within this group were the important foreign policy and defense appointments of Les Aspin (Secretary of Defense), James Woolsey (CIA director), Anthony Lake (NSA), Warren Christopher (Secretary of State) and Madeleine Albright (UN Ambassador). With the exception of Albright, these appointments were filled with predictable, experienced white males and not subject to the racial and gender quotas apparently in place in other areas of the administration. What emerged was a two tier system of organisation: departments concerned with economic and budget management, foreign policy and defense in one group and departments concerned with domestic policy areas and those issues not so high on the Clinton legislative agenda in the other. These latter departments were filled with people who were chosen for reasons additional to their expertise, i.e. the lobby interests that they might satisfy - Hispanic

Americans, African Americans and women. Clinton realised that, ultimately, he would be judged upon his legislative progress in the sphere of economic, budgetary and defense policy rather than domestic policy and it was essential that these political appointees were well qualified and capable of innovation and management and acceptable to conservative financiers and the business community.

### **Trouble at the Justice Department**

The most visible demonstration of Clinton's commitment to diversity was his desire to appoint the United States' first female Attorney General. This promise opened up one of the most challenging periods of the transition for Clinton and his new administration. The first nominee, whose selection was announced on December 24, was Zoe Baird. Baird was one of several women initially under consideration; Judge Patricia Wald declined her call to office, Brooksley Born was rejected by Clinton after performing badly in her interview, and Zoe Baird was the President-elect's final choice. Relatively unknown within the Washington community and with no experience in law enforcement, Baird initially appeared to be an unusual choice. Her connection with Washington resulted from a brief stint in the Carter White House and later from working with Warren Christopher at the Washington law firm of O'Melveny & Meyers.<sup>34</sup> Primarily a corporate lawyer, first with General Electric and then with Aetna Life and Casualty, initial worries about her nomination stemmed from a fear that she

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<sup>34</sup> Fessler, Pamela. "Few Senate challenges Expected for Clinton Cabinet Nominees. CQWR. 2/1/93 p.14



would be unsympathetic to the consumer demands that are placed upon the Justice Department.

While Baird's professional experience might not have been entirely appropriate for the Justice Department, more personal factors intervened to present the new administration with one of the most challenging incidents of the transition. In order to maximise the administration's chances of placing their first choice of individual in any department, background checks are conducted into all aspects of the candidate's personal life. During interviews with the transition team, and later in the Senate hearings, Baird freely revealed that she had knowingly broken the law by hiring two illegal workers as domestic help. In addition to this Baird and her husband failed to pay the required social security and unemployment taxes. These taxes and the fines incurred were paid just days before the Senate hearing. The business of the Senate hearing focused upon Zoe Baird's domestic arrangements rather than her professional experience or orientation to the position of Attorney General. Media attention became focused upon what they termed 'Nanny-gate'.

These revelations placed Baird, the Clinton administration and the Senate Judiciary committee in an embarrassing situation. Baird's claim that she and her husband had only hired an illegal worker when they had trouble finding affordable, legal, domestic help received little sympathy from the Senate committee or the general public. The public uproar which resulted from this admission was a matter of concern to Senators, who found their offices inundated with protests from constituents. This placed many Senators in an awkward position, reluctant

to embarrass a new Democrat President but obliged to be responsive to constituent demands.

Recognising that her credibility was fatally flawed, Baird withdrew herself from consideration on January 22, 1993.<sup>35</sup> The whole debacle raised serious questions about the nature of Clinton's appointment process and to what extent he was personally involved in the selection and investigation of his staff. This was compounded by the fact that Clinton had pledged during the election to make "high ethical standards paramount in his administration".<sup>36</sup> The full extent of Clinton's knowledge was never fully disclosed by the administration, although Clinton accepted responsibility for failing to anticipate the public's reaction to these revelations of wrong doing. In a public statement on January 22, 1993, President Clinton announced "Clearly our review process prior to her selection failed to evaluate this issue completely, for that I take full responsibility".<sup>37</sup>

It was not until the end of February that this event in the transition was concluded. Clinton's second potential nominee, Federal district Judge Kimba Wood, withdrew her name from consideration because she too had hired an undocumented worker. It appeared that Clinton would have difficulty finding a suitable female to head the Justice Department. On February 11 Clinton announced the nomination of Janet Reno as Attorney General. Reno's experience as Dade County state attorney made her familiar with law enforcement issues and State level administration, useful skills to bring to Washington in the absence of

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<sup>35</sup> For a more detailed analysis of the non-confirmation of presidential nominees see: Krutz, Glen S., Richard Fleisher & Jon R. Bond. "From Abe Fortas to Zoe Baird: Why Some Presidential Nominees Fail in the Senate." American Political Science Review. Vol. 92, No. 4 (1998)

<sup>36</sup> "White House Defends Nominee For Justice Post." The Times 22/1/93

<sup>37</sup> Public Papers of the President of the United States: William Jefferson Clinton. Book 1 p.5

Federal experience. Reno's Senate confirmation hearing accepted her nomination without further delay on March 10. Clinton had finally achieved his aim of appointing the nation's first female Attorney General.

The example of the Baird case raises a number of important points about the nature of personnel selection during the transition period. Increasing diversity within government places increasing demands upon the selection process. Child care arrangements had never previously been a consideration in a Senate confirmation hearing; was this because no previous nominees had experienced child care difficulties or was it more relevant to Zoe Baird as a female nominee? By attempting to increase the number of minority groups represented in federal government, the Clinton administration faced the task of finding qualified, experienced, capable individuals from these minority groups. During the transition, much critical attention was focused upon the perceived inability of the administration to fill these positions and the problems of extending diversity within government were compounded by very slow progress in sub-cabinet level appointments throughout the early months of the 1993.

### **Initial Observations on the Clinton Transition**

In his objective of bringing diversity to government, Clinton was very successful. The final cabinet line-up contained four African-Americans, two Hispanics and three women. In addition, he placed women in senior positions within executive agencies and other important bodies: the Environmental Protection Agency, Council of Economic Advisors, United Nations and the Office

of Management and Budget. These achievements are unprecedented regardless of the difficulties he experienced with the nomination of a female Attorney General.

During the interregnum most of the energies of the transition team were given over to selecting the diverse but coherent cabinet. This left little time for the President-elect to establish his White House structure. Political commentators have noted that what set the Clinton White House apart from its predecessors was its youth, inexperience and diversity.<sup>38</sup> Having campaigned as a Washington outsider, it came as no surprise that the Clinton White House would be filled with faces unfamiliar to the Washington establishment. Having demonstrated his awareness of the need to work with Congress through his cabinet appointments, an inexperienced White House could have been balanced by a strong cabinet and the resort to cabinet government. However, Clinton's own personal passion for policy was a guarantee that the White House would remain the power house of policy deliberation rather than the cabinet. That being the case the youth and inexperience of the White House staff could limit the President's ability to achieve his policy objectives.

Clinton's White House was dominated by two conflicting factors; his personal closeness to many of his advisors and its loose organisational structure. Clinton's closest advisors, Hillary Rodham Clinton, Ira Magaziner, Bruce Lindsey, were all close to his administration as Governor of Arkansas and their relationship with him was intensely personal. This meshed with his own personal style, which has been described as exuberant, informal, non-hierarchical and indefatigable.<sup>39</sup>

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<sup>38</sup> Pfiffner, *op. cit.*, p.152

<sup>39</sup> Watson, Jack: "The Clinton White House". Presidential Studies Quarterly. Vol. 23 No. 3 (1993) p.431

Given the interplay of these two factors, the Clinton White House was destined to be dramatically different from its predecessors; neither hierarchical structure, nor spokes of the wheel. Clinton borrowed much of his organisational structure from the world of management theory; as illustrated by his use of task forces and policy councils as problem solving structures. This allowed Clinton to control the policy output of his administration by limiting the number of inputs, avoiding inter-agency competition and infighting over resources from executive departments. Criticism of this structure was not a result of its newness or efficiency, but rather because certain communities within Washington, particularly in Congress, felt excluded from the policy making process.

The exclusion of important communities within Washington was going to play a significant role in the prospects of the early months of the Clinton administration. Continuing the campaign strategy of 'narrowcasting' to what have been termed 'new media' sources; non-political media outlets such as talk shows, MTV and town hall style media events, the new administration sought to control its media image and as a consequence alienated the crucial press and national media.<sup>40</sup> This was compounded by the attitude of the White House Office of Communications towards the White House press corps. Privileges of access and information which had been available under previous administrations were withheld. It has been commented that, while new Presidents can expect at least a momentary honeymoon with the press and Congress, Clinton's "was pronounced 'over' before it had even begun."<sup>41</sup> In this event, the new

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<sup>40</sup> Delli Carpini, Michael X. "Critical Symbiosis; Three Themes on President-Press Relations." Media Studies Journal, Vol. 8 No. 2 (1994) p. 196

<sup>41</sup> Hughes, William J. "The 'Not-So-Genial' Conspiracy: The New York Times and Six Presidential 'Honeymoons', 1953-1993" Journalism and Mass Communication Quarterly, Vol. 72, No. 4 (1995) p. 843

administration laid a rocky path for itself in seeking to promote its policy priorities.

It is through a closer examination of policy making within the Clinton administration that the interplay of personnel and policy becomes more clear. To illustrate this the following four chapters will analyse these relationships with reference to the rejuvenation of an issue area which had existed in a limited way within domestic policy - national service legislation; the management of the budget process and economic investment - the economic stimulus plan; major reform of the provision of health care; and finally the use of non-legislative powers to bring about policy innovation - Clinton's use of executive orders in the cases of homosexuals in the military and the federal funding of abortion. Ultimately an assessment will be made as to whether the Clinton transition was successful in fulfilling the administrative and legislative goals that it set itself and whether Brauer's theory can be tested against this performance.

## **Chapter 3: National Service Trust Act**

In the first weeks and months of their new term of office newly elected Presidents are engaged a frantic effort to gain control of the levers of power, to plant the seeds of their new administration and to publicise of their legislative and policy priorities. Certain policy decisions are an institutional priority, for example the budget, but the early policy choices which reflect campaign issues and promises can be even more significant. For Bill Clinton, these early policy choices included not just issues which were centrally located within his campaign, the economy and health care reform, but also a more peripheral issue, the establishment of a programme of national service. This chapter traces the development of the national service initiative, examining the theoretical and historical background, the influence of the White House over the shape of the legislation, the congressional debate and the resultant policy outcome. As an early policy priority its progress is assessed in relation to Brauer's framework for transition success.

During the 1992 campaign candidate Bill Clinton gave a personal commitment to the development of a civilian national service programme and the reform of the student loan system. The development of the National Service programme provides a clear example of the elements involved in presidential policy initiation during the transition period. Policy development, promotion and initiation occurred during the transition period, and implementation took place within the first year of the administration. National service legislation faced problems within Congress and many of these difficulties were a reflection on the Clinton administration's handling of the transition period as a whole.

Following Clinton's election, the development of a civilian version of the



GI Bill<sup>42</sup> became an early administration priority and as a case study the national service legislation is of particular interest for a number of reasons. The political relevance of national or community service has both historical and contemporary links, very little academic attention has been dedicated towards it as a policy issue at the local, state or national level. Secondly, national service was a well publicised campaign issue which attracted a lot of support for the Clinton campaign and therefore, the progress of this piece of legislation provides a good indication of the legislative course of the administration in general. Finally, national service is the most self contained of the five major issues upon which President Clinton decided to focus. Health care and welfare reform, the economy and the deficit, and campaign finance reform all require the co-operation of a number of different agencies for development, initiation, debate and implementation. Moreover, these pieces of legislation required long term development and research because of its inherent complexity; national service legislation had none of these limitations.

### **The Development of a 'New Democrat' Issue**

The foundations of the Clinton national service legislation can be said to come from a number of sources, some historical and others more closely connected with the social and political culture developing during the 1980s and 1990s. The initiation and promotion of this piece of public policy served a number of political ends for Clinton the candidate and Clinton the President; as

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<sup>42</sup> For an account of the provisions of the GI Bill (Servicemen's Readjustment Act, 1944) see George B. Tindall and David E. Shi. America: A narrative history. (1989) p.791

one observer has noted, “in a very real sense national service connects policy with politics”.<sup>43</sup> During the 1992 Presidential election national service was one of the most popular issues with the electorate. The idea of national service provided Clinton with a proposal which was bipartisan in nature and did not discriminate on grounds of wealth, social position or race. Every person was eligible to apply, and therefore, serve their country.

The roots of the idea of a civilian form of national service, however, go back much further than the 1992 election. Like much of Clinton's election campaign this issue has links to earlier presidencies. In 1961 John F. Kennedy requested that Americans "ask not what your country can do for you; ask what you can do for your country." The Clinton Administration saw civilian national service as a way to bring these principles up to date to deal with the societal needs and issues of the 1990s.

Franklin Roosevelt used the concept of national service to develop the Civilian Conservation Corps (CCC), Civil Works Authority (CWA), and the Works Progress Administration (WPA). Providing several million young men aged 18 to 25 with useful jobs and a nominal income during the Great Depression. During World War II President Roosevelt also developed the idea of a GI Bill of Rights, offering returning military veterans the opportunity to enter higher education in return for their service to their country. This policy idea became a reality after Roosevelt's death and was implemented by President Truman.

Roosevelt's New Deal work relief organisations were, in general, make work schemes providing jobs through federal funds for those who had no other

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<sup>43</sup> Mohan, John. "What can you do for your country? Arguments for and against Clinton's National Service Legislation" Policy and Politics. Vol.22 No.4 (1994) p258

means of support. The benefit of the work done by those enrolled in these programmes was evident in the multitude of new roads, airports and schools which appeared in the years prior to America entering World War II. Organisations like the CCC, however had a short life span. They were designed to provide emergency relief through work for the very poor and working for the relief was essential to Roosevelt's concept of welfare.

President Kennedy also contemplated a form of national service, a domestic equivalent to his international Peace Corps but actual legislation for this was enacted by President Johnson. With his first piece of major legislation, the Economic Opportunity Act 1964, President Johnson intended to conduct a war on poverty. This omnibus bill contained several programmes intended to combat poverty in the United States and formed the foundations for his Great Society programme.<sup>44</sup> Much of its content harked back to Roosevelt's ideas embodied in the CCC, CWA and WPA. However, there were also additional provisions of support to local organisations aimed at alleviating poverty within their own communities, aid for small businesses, and the establishment of a domestic Peace Corps: Volunteers in Service to America (VISTA). This organisation was said to provide a framework for "millions of Americans...willing to serve their less fortunate countrymen but have no rallying force to challenge them".<sup>45</sup> In the late 1960s Robert Kennedy supported a proposal to establish a police corps, providing college scholarships to those who were willing to undertake four years police service. Kennedy was assassinated before this proposal could be enacted,

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<sup>44</sup> Fraser, Steve and Gary Gerstle. The Rise and Fall of the New Deal Order 1930-1980. p.196  
For a more detailed analysis of this topic see: Chapter 7 in Fraser & Gerstle or James L. Sundquist. Politics and Policy: The Eisenhower, Kennedy and Johnson Years. pp.145-149

<sup>45</sup> 14/1/64 Report from President's Study Group on National Service Corps quoted in Congressional Digest. October 1993, p.226

however, 30 years later, it did become part of the crime bill passed by Congress in 1994.

More recently George Bush spoke of 'points of light', and the need for greater volunteerism in society to solve community problems. President Bush's vision for community service was based on the principles of pure volunteerism; good deeds done for no monetary incentive or reward. This would provide communities with badly needed services at no cost to local, State, or Federal government. Individuals who had provided outstanding service in their community were rewarded by the Bush administration through news releases announcing them to be the 'daily point of light'.<sup>46</sup>

While President Bush was promoting his 'Points of Light Foundation', members of Congress were also promoting their own forms of national service. Most particularly Senator Sam Nunn (D-Ga) and Representative Dave McCurdy (D-Ok) were taking the lead in "making military or civilian 'national service' a prerequisite for receiving federal student aid".<sup>47</sup> The legislation proposed up to two years community service, with pay of \$100 per week; or two years active duty within the military on two thirds full pay followed by six years in the reserves. The post service educational awards would amount to \$10,000 and \$24,000 respectively. Much of the impetus towards encouraging service linked to federal benefits has been attributed to the Democratic Leadership Council (DLC); a moderate think tank established by a group of Democrats after Ronald Reagan's presidential election victory in 1984. Bill Clinton and Al Gore were both founder

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<sup>46</sup> Zuckman, Jill. "President's 'Points of Light' Still Only a Dim Twinkle." CQWR 27/1/90 p.240

<sup>47</sup> Kuntz, Phil. "Nunn-McCurdy Plan Ignites National Service Debate." CQWR 25/3/89 p.645

members of the DLC.<sup>48</sup> The DLC's interest in national service dated from 1988 when sociologist Charles Moskos presented his idea of national service to a DLC conference in Virginia. "The plan was quite dramatic: every American who wanted federal financial aid for college would *have* to perform 'national service'".<sup>49</sup> Moskos's idea of national service became the central focus of the legislation proposed by Senator Nunn and Representative McCurdy. Several other leading Democrats in Congress were interested in the concept of national service and also proposed legislation for Congressional consideration. National service gave Congressional Democrats an issue which they could define and stand behind, while Republicans waited for Presidential initiatives.

When President Bush finally put his legislation before Congress in 1990, his emphasis was still upon pure volunteerism. The National and Community Service Act 1990 authorised the Points of Light Foundation as proposed by President Bush. It also authorised grants to establish "national, community and school-based volunteer service programs"<sup>50</sup> run under the auspices of the Commission on National and Community Service; but within these organisations there was no organised framework for serving the country as a whole.

By raising public awareness of the issue Clinton's intention was to promote the notion that it could move further away from the idea of entitlement and pure volunteerism to that of social responsibility. In Senator Kennedy's words "democracy means not only the right to pursue one's own interest, but the responsibility to participate in the life of the nation in return."<sup>51</sup> A long time

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<sup>48</sup> "Stage Set for Fierce Democrat Fight on Wages and Welfare." The Times 19/1/93 p.13

<sup>49</sup> Waldman, Steven. The Bill. p.3

<sup>50</sup> Zuckman, Jill. "Bush Initiative, Other Measures Move in Adjournment Rush." CQWR 27/10/90 p. 3614

<sup>51</sup> Zuckman, Jill. "Bill To Spur Community Service Wins Approval in Senate." CQWR 3/3/90

exponent of national service and communitarianism in general, Amitai Etzioni, said that “national service is desirable to build and express civil commitment”.<sup>52</sup> This concept allowed Clinton to distance himself from traditional liberal welfare Democrats and emphasise his 'New Democrat' credentials. Clinton was directly involved in the DLC's adoption of the Moskos plan for national service in 1988-89. In 1991 when he was considering his candidacy for the presidency, national service resurfaced as a viable campaign issue. Problems of group alienation which had plagued the Nunn-McCurdy legislation were born in mind and the concept was revised. Instead of requiring students to undertake service to receive federal financial support, Clinton proposed to “offer extra aid to those willing to do service”.<sup>53</sup> Tied to the performance of service was a reform of the student loan system, allowing graduates to accept lower salaries without fear of loan default.

In addition to fostering a tradition of service, national service was seen as a way of opening education to those who may have previously considered it beyond their financial reach. It was also promoted as a way to make higher education more affordable for the middle classes, those hardest hit by the rapid increase in the cost of college level education. Through a revision of the current student loan procedures and also through what was labelled the ‘Domestic GI Bill’ the Clinton campaign hoped to enable students to borrow money for college and then pay it back as a “percentage of their income over time or through national service addressing unmet community needs”.<sup>54</sup> The Clinton team

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p.669

<sup>52</sup> Etzioni, Amitai. The Spirit of Community: Rights responsibilities and the communitarian agenda. p.115

<sup>53</sup> Waldman, op. cit., p.5

<sup>54</sup> The Democrat Party Platform 1992. p.5

believed that this would “revolutionise the way student loan programs are run”.<sup>55</sup>

Clinton also saw national service as a way of ameliorating urgent social problems and identified four critical issue areas which national and community service would address: education, public safety, human needs and the environment. Volunteers would take part in programmes developed at the local level, serving the community's specific needs. Provision of these services through normal employment opportunities would be impossible as individuals had been unwilling to accept the low wage levels that the market provided for these positions.

Building on the precedents set by Presidents Roosevelt, Kennedy and Johnson, Clinton was also hoping to tap American's rising awareness of the decay of community and society. In conjunction with this, there had been an increase in the desire of many Americans to contribute towards the improvement of their communities. At the local level, public service programmes aiming to redress the social balance have been emerging over the past few years; for example the New Jersey Youth Corps, the Delta Service Corps and the Boston City Year programme. While at the Federal level a number of national service type programmes were administered by ACTION (of which VISTA was a part), the Commission on National and Community Service (created by the National and Community Service Act, 1990), and the Departments of Defense, Housing and Urban Development, Agriculture and Interior.<sup>56</sup> It represented a disconnected network of programmes which had no integrative effect upon community service. The Clinton Administration's proposal would consolidate all these programmes

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<sup>55</sup> Ibid.

<sup>56</sup> Congressional Digest, October 1993 p.225

within a new governmental organisation, providing a national rather than agency specific view. The new governmental organisation would not, however, supplant the state and local organisations. At the state and local level non-profit organisations would be responsible for the development and administration of their own service programmes to meet specific community needs.

### **The Clinton Initiative: Linking Service & Education**

Clinton announced his proposal for the national service legislation on March 1 1993, at Rutgers University, New Jersey. He proclaimed that “National service was nothing less than the American way to change America”.<sup>57</sup> The significance of March 1 could not be escaped (or more importantly ignored) as thirty two years earlier President Kennedy had announced his intention to create the Peace Corps. While Clinton intended his national service programmes to be based solely in the United States the principles of service, civic education and responsibility were directly comparable. During his speech Clinton also sought to establish links with the GI Bill, proposing that his service plan would be built upon the same notion of linking service with higher educational opportunities.

Attention was also paid to outlining his plan for the reform of the student loan system. Changing the methods by which students could finance their education was to be an integral part of the call to service. At that time students borrowed money from financial institutions and made repayments based on how much they had borrowed regardless of income. The suggested loan reform would

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<sup>57</sup> Weekly Compilation of Presidential Documents. March 8, 1993. Vol. 29 No.9 p.342



enable students to borrow money directly from the Federal government and then repay the loan as a percentage of their income over time. Under the existing system Federal government guaranteed to cover 90 percent of any student loan default to banks, thus providing the banks with little incentive to make repayments easier for students and the burden of financing the loans was transferred to the tax-payer, to the tune of \$4 billion per year. Student loan reform had the potential to save the American tax payer billions of dollars.<sup>58</sup> Through covering bank loan defaults federal funds, tax dollars, were being paid out to banks with no return. By lending to students on more flexible terms, the federal government could reduce defaults, guarantee a return on their loan and reduce the burden on the tax payer.

Using examples from programmes that had been running in cities throughout the United States, President Clinton illustrated his vision for national service. He promised that these programmes would continue to be supported and expanded under the auspices of the new government organisation. The exact details of the educational grants that would be available to individuals completing their period of service, or the type of new programmes that the President envisaged local communities establishing, were not given during his address. Instead, as the *Washington Post* noted; “Clinton rallied an enthusiastic audience of young people behind the concept”.<sup>59</sup>

The choice of universities as the forum for Clinton’s promotional speeches underlined the importance that was being placed on linking service with education. Moreover, one of the aims of the national service legislation was to

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<sup>58</sup> *Weekly Compilation of Presidential Documents*. March 8, 1993. Vol. 29 No.9 p.344

<sup>59</sup> Devroy, Ann. “Get involved, President Tells Youths.” *Washington Post*; 2/3/93 p.A08

provide more financial security to existing students. With the cost of college level education rising even more rapidly than health care costs, more flexible financial options for students would hopefully stem the tide of college drop out rates; which had risen to two and a half times that of high school drop out rates, mainly due to financial insecurity.<sup>60</sup> Keeping students within education was of at least equal importance to attracting students who may never have previously considered entering higher education.

### **The Role of the White House**

The development of national service legislation was placed in the hands of Eli J. Segal: businessman, chief of staff to Clinton during the 1992 presidential campaign, and lifetime Clinton friend. Segal's political background was shaped by student activism in the 1960s and 1970s and the McGovern presidential bids of 1968 and 1972. He replaced politics with a career in business, but remained active via the Gary Hart campaign in 1987 and as a major fund-raiser for the Democratic National Committee. More than any other aspect in his political past, his personal closeness to Bill Clinton and the President-elect's faith in Segal's organisational abilities, placed him at the pinnacle of one of the key policy initiatives of the new administration.

Policy development took place within the newly created White House Office of National Service rather than within one specific government department such as Education or Health and Human Services. While much of the underlying

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<sup>60</sup> Weekly Compilation of Presidential Documents. March 8, 1993. Vol. 29 No.9 p.344

research and information came from the Democratic Leadership Council, which formulated many of the policy ideas he adopted during the campaign, the final legislative proposal was the work of Shirley Sagawa and Jack Lew. Sagawa had been closely associated with the Nunn-McCurdy proposal and Lew was a former policy aide to Tip O'Neill. Their credentials were very much liberal, old Democrat, but the policy proposal represented a fine blend of such liberalism and DLC principles.

The strength of Sagawa's and Lew's credentials within Washington were never in doubt; what did trouble some observers, however, was the inexperience of both Segal and his deputy Richard Allen, in all matters concerning service issues. Their inexperience was also extended to the rest of the staff in the Office of National Service. Like much of the early Clinton White House, it was populated by young, twentysomething individuals who were more likely to be completing their Bachelors degrees by correspondence than to have experience in the finer points of policy development and implementation. However, in his appointment of Eli Segal, Clinton placed national service legislation in the hands of a trusted friend in whom he had total confidence.

Even after President Clinton's speech at Rutgers University, little was known about the exact nature of national service; whether it would be mandatory for those hoping to take advantage of loan reform, how many people would be able to take part in the programmes, the minimum and maximum duration of any service period, and what the remuneration would be for service. Such details could only be worked out by Congress in its deliberations of the legislation. A pilot programme 'The Summer of Service' was established between June and

August 1993. The \$15 million appropriated for this scheme was distributed to partnerships between higher education institutions and public organisations. The programmes were targeted at meeting urban needs in a variety of cities throughout the United States. The 1,500 participants received the Federal minimum wage and a post service educational grant of \$1,000.<sup>61</sup>

### **Congressional Deliberations**

The national service legislation was sponsored through Congress by Senators Edward Kennedy (D - Mass), Harris Wofford (D - Pa), and Dave Durenberger (R - Minn), and Representative Matthew G. Martinez (D - Ca). After committee deliberations in the House Education and Labour Committee and the Senate Labour and Human Resources Committee, both committees moved to pass HR2010 and S919 respectively to the floor of their chambers on June 16 1993, just five weeks after the White House had announced the legislation. The proposal called for up to two years full time service in order to receive an educational award. This award would be \$5000 for every year of service performed by an individual aged seventeen or older. The period of service could be performed before, during or after entering post-secondary education. While in service, volunteers would receive a minimum wage stipend of \$7400, financed up to 85 percent by the federal government. In addition to this the federal government would finance 85 percent any health care or child-care costs. The programmes would be initiated and administered at the local level by non-profit

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<sup>61</sup> Mohan, op. cit., p.261

organisations, with funds for the programmes raised at federal level.<sup>62</sup>

The House of Representative began its deliberation of HR2010 on July 13; the legislation was passed on July 28 by a vote of 275 to 152. An amendment offered by Representative Bob Stamp (R - AZ) reduced the post service annual award by \$275, from \$5000 per year to \$4725. The Senate began its consideration of the legislation on July 29; it was passed on August 3, with voted of 58-42. The conference report was adopted by the House (275-152) on August 6, and by the Senate (57-40) on September 8. President Clinton signed The National Service Trust Act on September 21, 1993.<sup>63</sup>

### **The Obstacle Course**

The passage of President Clinton's national service initiative might have been speedy, but these appearances are deceptive as its journey was far from smooth; opposition to the legislation was raised on several levels. Firstly, as organisations already existed which administered community service programmes along similar lines to the Clinton proposal, the additional bureaucracy and expense which would come with the Corporation for National Service was thought to be unnecessary. Moreover, given that the Clinton campaign emphasised the need to reduce bureaucracy in Federal government, the establishment of yet another monolithic organisation would contradict one of their key election issues; the need to re-invent government, reduce government personnel levels and spending.

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<sup>62</sup> Zuckman, Jill. "National Service Goes to Floor in Both Chambers." CQWR 19/6/93 p.1577

<sup>63</sup> Congressional Digest. October 1993 p.235

Secondly, existing educational grants had been subject to reductions in funding over previous years; for example, Pell grants - means tested educational grants available from the Federal government had been reduced in value by \$100 for the previous two fiscal years. Providing funds for the national service programmes from the same budget areas as other educational funding would come at the expense of grants programmes which already helped students pay for their post secondary education.<sup>64</sup> Thirdly, veterans' organisations were concerned that the level of the educational awards would undermine the attractiveness of the GI Bill, especially if performing civilian national service would provide grants of similar value. Finally, the provision of volunteers to perform community work was seen as a possible threat to those already working in that sphere. As national service volunteers would provide cheap labour for community based projects would existing employees have any job security? All of these objections made the passage of the Clinton national service legislation less of a certainty and brought about a piece of legislation which was a shadow of that initially proposed.

The appropriation of funds for the National Service legislation was always going to be a contentious issue. Whichever appropriations committee was required to distribute funds would find other existing programmes' financial security threatened. Originally, the appropriations committee designated to deal with national service was the one which funded veteran's, housing and space programmes rather than the Labor and Health and Human services committee, which has traditionally funded education.<sup>65</sup>

During congressional debates on the legislation, as a result of lobbying by

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<sup>64</sup> Zuckman, CQWR 19/6/93 p.1577

<sup>65</sup> Ibid

veterans' organisations and an amendment to the bill table by Representative Gerald B. H. Soloman (R - NY), appropriations for the bill were moved to the Labor and Health and Human Services committee, therefore, any funds appropriated by this committee for national service would come at the expense of existing educational funding of grants and scholarships.

Critical attention also focused upon the concept of loan reform; not only the idea that educational grants for service would undermine existing student funding options, but also the notion that federal government should begin to finance student loans that would be repaid on any basis other than on how much had been borrowed. The Clinton proposal for reforming student loan procedures sought to overhaul the present system. It envisaged that a national trust fund would be established which would loan money to students. These Federal government loans could then be repaid through national service, but they could also be repaid by "contributing a fixed proportion of their subsequent income for a specified number of years".<sup>66</sup> Other than perceived problems of collection, which would have to be performed through a national organisation such as the Internal Revenue Service (IRS), federal government financing of student loans would take a reliable source of income away from the banks which had previously provided such loans. However, collecting student loans through the IRS would reduce the amount of loan default as the agency would have access to all the relevant information about borrower's incomes, employment and the like. In the long run, this would remove the burden of financing the student loan programmes away from the average American taxpayer.

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<sup>66</sup> Krueger, Alan B. & William G. Bowen "Income-Contingent College Loans" Journal of Economic Perspectives Vol.7 No. 3 (1993) p.193

Of the objections to the national service bill, some carried more legitimacy than others. The creation of a new organisation to administer all national service type activities was essential if there was to be a coherent strategy for national service. Since the creation of the Peace Corps, and every subsequent similar initiative, a new agency was established to administer that project, without reference to existing organisations. The most comprehensive agency was ACTION, which was created under the Johnson administration to handle the voluntary programmes of the Economic Opportunity Act. The weakness of the existing system was that there were too many different agencies working in the same field and not co-ordinating their efforts. Under the Corporation for National and Community Service, which was to be created by the legislation, duplication in administration would be avoided. Rather than adding to the federal bureaucracy, it had the potential to reduce the number of administrators needed, thereby keeping the Clinton campaign promise to reduce the size of Federal government. As Representative Matthew Martinez stated in the House of Representatives on July 13, "This bill...reinvents government by consolidating and streamlining the existing federal administration of service and volunteer programs".<sup>67</sup> The idea of re-inventing government was not popular within the civil service and with ACTION employees in particular. Lobbying of the White House by the National Association of Service and Conservation Corps forced the administration to guarantee the jobs of four hundred ACTION employees, either within the new Corporation or within another area of federal government.<sup>68</sup>

The concern that National Service would be an expensive method of

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<sup>67</sup> Congressional Digest October, 1993 p.240

<sup>68</sup> Waldman, op. cit., p.162-164



meeting community needs was investigated in a cost benefit analysis carried out by Neumann et al.<sup>69</sup> Their study of three different National Service programmes in numerous US cities found that for every federal dollar spent there was a net return of between \$1.60 and \$2.60.<sup>70</sup> It is stressed in their analysis that this is just the financial benefit, and that total human benefit is impossible to measure. It can be seen, therefore, that national service programmes have the potential to be financially viable.

The change in appropriations sub-committee for the national service bill threatened the future of existing educational grant schemes, as was feared by Republican opponents of the initiative. However, these concerns would have been balanced against the lobbying of veterans' organisations. Their assertion that the Clinton national service bill would draw potential volunteers away from the military and the GI Bill was probably more persuasive than fears for future funding of educational grants. It seems unlikely, given the value of the post service award that individuals would, if so inclined, be persuaded to perform civilian rather than military national service. Changing the appropriations sub-committee further guaranteed high level of funding for veterans' programmes and threatened any future plans for the expansion of any educational grant programme.

Finally there was little foundation to concerns that the participation of individuals in community based service would threaten the employment security of those already working within those areas because "The bill would require

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<sup>69</sup> George Neumann, Roger Kormendi, Robert F. Tamura, Cyrus J. Gardner. "The Benefits and Costs of National Service; Methods for benefit assessments with application to three AmeriCorps programs". Washington D.C.: Corporation for National Service, 1995.

<sup>70</sup> Neumann et al: op. cit., p.27

consultation with employee representatives to ensure that it does not displace wage-earning workers".<sup>71</sup> The whole focus of the Clinton Administration's legislation was that it was aimed at addressing unmet community needs; not providing an inexpensive source of labour to carry out social welfare policy at reduced cost to the government.

## **The Results**

The main question which needs to be addressed now is whether the progress of this national service legislation can provide some broader insight into the policy process within the Clinton Administration, or whether it is simply a singular example of legislative success within this transition period. What was most striking about this piece of legislation was, that despite administration claims that it was a new policy idea, in reality it was a consolidation of existing policy areas. This may be a key to its relative success.

The American political system, through its institutional arrangements and the political style of its actors, is resistant to large scale change in short spaces of time. A brief examination of Clinton's plans to reform health care provides a prime example of legislative deadlock caused by an attempt at wholesale institutional reform. Reform of the health care industry was a principal campaign promise of the Clinton Administration. In attempting these reforms, Clinton came across numerous obstacles: opposition from organised interests within the industry-the American Medical Association, hospital trusts, insurance companies

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<sup>71</sup> Rep. William D. Ford quoted in Congressional Digest October 1993 p.238

and the pharmaceutical industry-Congressional resistance due to lack of consultation and the complex nature of the legislation, and public and institutional distrust of the policy development process-Clinton's delegation of policy development to a secret task force with his wife as chairperson. All of these factors contributed to the ultimate failure of health care reform. The legislation was too complex, too far-reaching in its aims, and furthermore it was unpopular with business and Congress as it appeared to be unworkable.

In comparison, National Service legislation was simple, attractive, easy to implement, and not attempting to reform the whole system of higher education within the United States. Moreover, the limited scale of the programmes and benefits, due to low levels of funding, posed little threat to the interests of veterans' organisations, institutions of higher education and existing employees within the community service area. As with all policy options, it is the ability of the administration to balance principles with practicalities which determines whether or not the policy will be successful. By building its national service legislation upon the existing framework of similar programmes dating back to the Johnson administration, the Clinton administration had an increased chance of 'hitting the ground running' with this piece of legislation during the transition period. Without such a framework, policy development within the health care sphere was dramatically complicated. Such an assessment of the nature of policy development questions the future of policy innovation within the American system. If large scale reform is virtually impossible to achieve, it is possible that a more incremental approach toward reform is needed?

National service legislation is possibly illustrative of this approach. The

reform of the student loan system, which formed part of the Clinton Administration's vision for national service, was policy innovation, but policy innovation on a small scale. While it moved federal government into an area with which it was unfamiliar, it was not replacing the existing system of student loans and removing banks totally from the equation. The role of federal government was to supplement that of banks rather than to replace them. Comparing this with health care reform where the administration sought to completely change the whole system of health care provision, and not just expand the government's role, it can be seen that policy innovation is possible within certain parameters.

Given that national service legislation was popular with the electorate and simple to legislate for, it encountered severe opposition within Congress. The majority of the reasons for this have been discussed; however, there is one overarching factor which cannot be avoided within American government and society as a whole. Americans are generally distrustful of large government solutions to social problems; such an approach was tried and failed during the 1960s. When President Kennedy asked for more social reciprocity during the 1960s he was asking during a time of great affluence. In the 1990s Clinton was asking for more civic responsibility in a time of perceived social crisis and financial insecurity. His legislative and electoral support was slim; with low voter turnout in 1992 and only 43% of the vote any mandate which Clinton believed he held was very fragile. In addition, Congress appeared in the early 1990s to be wary of finding federal government solutions to local problems.

However, there is no denying that the notion of national service was popular among the electorate, especially with the young. Such enthusiasm could

be attributed to youthful idealism, or a continuation of the trend towards candidates raising expectations above the realities which governments are able to achieve and provide. National service did become a legislative reality, moreover, the programmes proved themselves to be financially viable. However, expectations were not met with reference to the scale of activities. Funding for AmeriCorps has been continually reduced since September 1993, and consequently the number of individuals taking part in programmes has never reached the projected figures.

## **Conclusion**

Clinton's national service legislation is illustrative of a number of factors within policy development and implementation during the presidential transition period. It is not, however, exceptional as a piece of legislation. Its simplicity and popularity were attractive to legislators; however the problems which the administration faced in getting this legislation through Congress confirm that such factors are not sufficient on their own to secure legislative success. Subsequent legislative problems with health care reform prove that the development of large pieces of legislation have many more potential pitfalls; and that the development of smaller, more coherent policies may be the blueprint for policy innovation and success during the presidential transition period.

In terms of transition success or effectiveness the passage of Clinton's national service legislation exemplifies a number of conflicting issues. In terms of the four criteria by which this transition is being judged national service provides very mixed results. Preparation for the initiative was systematic, but not

integrated within the planning or transition structure. The DLC and their research organisation (Progressive Policy Institute) were close to the Clinton campaign in many areas, but the integration of personnel and ideas was not complete. Policy ideas were formulated outside the planning structure and then fed into the administration, rather than being centrally located within any one area of the campaign or transition. Much of the complicated work of adapting the ideas into policy was embarked upon during the interregnum and immediately after the election. Even when the policy proposal was announced many of the details were still uncertain. This indicates that the preparation stage of the initiative was either ineffective in determining the policy needs of the administration or in shaping the policy to fit the requirements of the administration.

The formation of the White House Office of National Service was a strong indication of the administration's commitment to the issue. Most significantly its internal structure was not best designed for the task, with too many inexperienced, although enthusiastic, staff attempting to steer a symbolically important piece of legislation through the departmental and congressional maze. This was, in part, complicated by the wider legislative agenda. As will be discussed in future chapters the progress of national service was directly impacted upon by the legislative priorities of the budget and health care reform. Unlike Ronald Reagan, who was successful precisely because of his limited legislative agenda, Clinton embarked upon an expansive agenda, of which national service was just one element. In not learning this important lesson from his predecessor Clinton made a damaging mistake, which affected the progress of other more significant pieces of legislation.

To enthusiasts who saw it as too little and too weak, the National Service Bill failed to meet expectations. But to policy makers conscious of the basic rule-promises are cheap but policies are costly-the National Service Trust Act represents successful policy innovation and the honouring of an important campaign commitment.

## **Chapter 4: Economic Policy Management**



“Republican mismanagement has disarmed government as an instrument to make our economy work and support the people’s most basic values, needs and hopes.”<sup>72</sup>

Having detected popular feelings of economic insecurity, and having persuaded the American electorate into believing that their economy was still in recession, that the mismanagement of the Bush Administration was primarily to blame, newly elected President Bill Clinton promised to ‘focus like a laser beam’ on the economy. While this pledge was not as far reaching as President Bush’s ‘Watch my lips, no new taxes’, it provided Clinton’s critics with a potentially strong hold early in his administration. It was Clinton’s intention to concentrate on reducing the federal deficit and to stimulate the economy in order to generate thousands of new jobs. Forty three per cent of the American electorate had voted for candidate Clinton, in part supporting his contention that the failure of the economy in the 1990s was at the root of their domestic problems, and the economy and the deficit were overwhelmingly cited as the most important issues of the 1992 election. Furthermore, from the time of the Democratic convention in July 1992 Clinton maintained a substantial lead over President Bush in the public’s perceptions of who was best able to manage the economy (his lead over Ross Perot was less convincing).<sup>73</sup> This being the case, the shape and content of the Clinton economic plan was the most important piece of policy planning to be undertaken during the 1992-93 presidential transition.

This chapter discusses the evolution of the Clinton economic vision encapsulated in his early economic policy initiatives. Of particular interest are the

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<sup>72</sup> 1992 Democratic Party Platform p.1

<sup>73</sup> See Table 1 p.118. Taken from Gerald Pomper. *The Election of 1992*. p.125

provisions for deficit reduction and stimulus spending. In combination they represented a distinct divergence from the economic orthodoxy of previous Republican and Democrat administrations. As a 'New Democrat' Clinton was eager to move away from the traditional tax and spend liberal label attached to Democrat Presidents. Additionally, Clinton's management of this policy area was greatly influenced by his choice of political appointees and personal advisors, distinguishing it from other issue areas concurrently being developed in the White House for the policy agenda.

### **The Republican Economic Legacy**

The economic legacy of the previous two Republican administrations presented the first Democrat administration for twelve years with a major challenge if it was going to keep all of its campaign commitments. The recession of autumn 1990, which some relate to the excesses of the Reagan years, left 7.4% of the population unemployed by 1992, the highest level of unemployment since 1984, with the highest proportion of long-term unemployed since World War II.<sup>74</sup> During the Reagan administrations, the budget deficit soared due to a combination of reductions in taxation and large spending increases in areas such as defence. While there was concern that the deficit should be brought under control, the continued growth of the economy during this period discouraged the perception that crisis point had been reached. It was not until the end of the second Reagan term and President Bush was elected that the deficit was seen to

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<sup>74</sup> Statistical Abstract of the United States 1995. U.S. Bureau of the Census Table 626 & 658. Long-term is defined as persons without work for 26 or more weeks.

be a huge burden on the performance of the economy and that deficit reduction policies had to be undertaken. During this period there was a downturn in the economy but no substantial change in the Republican administration's attitude towards the Federal deficit.

As a candidate in 1988, George Bush made the now famous pledge to introduce no new taxes. This promise can now be seen to have been instrumental in his undoing in 1992. His initial reluctance and subsequent u-turn on increased taxation revenues to help reduce the deficit was the focus of critical attention. This combined with a non-interventionist stance with relation to promoting American industrial interests, and poor relations with a Democrat controlled Congress eager to protect important social programmes such as Medicare and Medicaid, translated into a poor record on economic policy which the Clinton campaign could exploit during the 1992 election.<sup>75</sup>

In an attempt to bring the deficit under control President Bush negotiated a deficit reduction package with Congress in 1990. It aimed to reduce the deficit by \$492 billion over five years. Within this budget deal, spending caps were set and spending organised into three areas: domestic, defence and international. These spending caps were designed so that funds could not be appropriated from one area and spent in another unless it could be proven that an emergency existed. Unfortunately the Bush administration was unable to fulfil its deficit reduction promise and, in fact the deficit increased by \$655 billion by 1992. This increase was caused by a combination of emergency spending, over optimistic forecasts of growth and the unprecedented rise in cost of Medicare and Medicaid. However,

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<sup>75</sup> Dylis M. Hill & Phil Williams Eds. The Bush Presidency: Triumphs and Adversities p.109-110

by 1992 the fruits of the limited economic policies of the Bush administration were beginning to pay off and the 'green shoots' of recovery were evident to those who paid close attention to the economic figures. But for the average American, unemployment was still high and perceptions of economic and employment insecurity permeated the work force as industries continued to downsize in response to the declining economy and the federal deficit had been further increased rather than reduced by the current Republican administration.

### **The Electoral Connection**

Since the publication of the work of Edward Tufte in the mid 1970s, it has been recognised that there is an electoral-economic cycle. Tufte contends that an incumbent administration may seek to manipulate economic benefits in order to secure electoral victory.<sup>76</sup> This ability to manipulate the economy has been made more difficult since Tufte's work by the reclamation of the budgetary power of a more assertive Congress, in addition to which the apolitical role of the Federal Reserve in managing the economy also limits presidential scope for action in any attempt to manipulate the economy. While this theory may not be well illustrated by the activities of the Bush administration during the 1992 campaign, it does provide evidence for the political belief that economic performance is a strong determinant of electoral success. Alesina, Londregan and Rosenthal go further to prove that the level of economic growth, regardless of the reasons for this growth

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<sup>76</sup> Edward R. Tufte Chapter 1 reprinted from *Political Control of the Economy* (Princeton University Press, 1978) in Paul Peretz Ed. The Politics of American Economic Policy Making. p.422

(government competence or 'luck'), has a strong influence upon the retrospective voting preferences of the electorate.<sup>77</sup> The way an individual votes not only reflects his or her own economic circumstances, but also that of the economy in general.<sup>78</sup> This makes economic policy management on a macro and a micro level one of the most influential deciding factors in Presidential elections.

Reagan's electoral performance in 1980 was not only influenced by his campaign tactics but also by weak performance of the economy under the Carter administration. The strong performance of the economy during the second Reagan administration went a long way to ensuring that Ronald Reagan left office as the most popular President since Eisenhower. George Bush's association with that administration and its successes were consolidated in his electoral victory in 1988.

The influence of independent candidate, Ross Perot, on the issue content of the 1992 election is made evident by candidate Clinton's adoption of the deficit reduction as one of his central campaign themes. By presenting the deficit as one of his own concerns Clinton was able to appeal to Perot supporters to 'make their vote count' and support his candidacy at the ballot box. While it was apparent that Ross Perot was not a direct threat to the Clinton campaign, it was necessary for him to court these floating voters in order to secure victory over George Bush. In addition to which Clinton could not afford to ignore an issue which had captured the hearts and minds of the public and the media throughout the campaign. Clinton concentrated his economic policy ideas on deficit reduction, a

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<sup>77</sup> Alberto Alesina, John Longregan & Howard Rosenthal. "A model of the Political Economy of the United States" in Peretz, op. cit., p.483

<sup>78</sup> Fiorina in Peretz, op. cit., p.443

short term stimulus package which would jump-start the sluggish American economy out of recession, and a series of major investment initiatives - for which read spending - in education and infrastructure development. Given the electorate's concern over the size of the Federal deficit, deficit reduction was of primary importance to the administration. Furthermore, providing a convincing or effective strategy for reducing the deficit appeared to be a precondition of the Clinton administration's aim of getting the other two key elements of its economic package through Congress.

### **Personnel Choices**

The centrality of the economy to the ideas of the Clinton administration was demonstrated by the care which was taken over economic appointments and the development of an economic policy-making machine. During the campaign Clinton proposed to establish an organisation based upon the National Security Council to formulate and co-ordinate economic policy. The National Economic Council was to become the main engine room of economic policy within the Clinton administration. The early establishment of this advisory network allowed Clinton to work on the mammoth task of designing an economic policy agenda early in his administration. The economic team that Clinton assembled around himself indicated a desire to aggressively pursue deficit reduction policies. The director of the Office of Management and Budget (OMB) Leon Panetta had been Chairman of the House Budget Committee and was a self confessed deficit hawk. Among Clinton's other economic appointments, Lloyd Bentsen (Treasury

Secretary), Robert Rubin (Chairman, National Economic Council), Roger Altman (Deputy Treasury Secretary), and Alice Rivlin (Deputy Director OMB), were all indicators pointing towards deficit reduction as being of primary importance on the administration's agenda. Appearances can be deceptive, however, and this combination of personnel within the economic line-up was not a guarantee of policy coherence within the economic sphere.

With his economic appointments, Clinton was indicating a number of different things to the Washington community - Congress, the media and lobbyists - those who work within the financial field, and the electorate. Lloyd Bentsen, veteran Senator and chairman of the Senate Finance Committee from 1987-1992, brought not only experience of the complex nature of taxation and budget legislation but also the respect of a large portion of the Washington community to the Clinton administration. Not only was his appointment popular in Washington DC but, as the Congressional Quarterly notes, "By putting the chairman of the Finance Committee in his Cabinet, Clinton gets one of the Senate's true titans, a conservative, business-minded Democrat who is comforting to Wall Street and adept as the ultimate insider game of taxation legislating."<sup>79</sup> In addition, his knowledge of the workings of Congress and personal contacts within the congressional machinery would be invaluable to the administration. Much the same can be said of Leon Panetta. Having served in Congress since 1977, following his resignation from the Nixon White House in 1970, he served on the House Budget Committee for the maximum period allowed, six years. After the designated waiting period, he returned to the committee as its Chairman in 1989.

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<sup>79</sup> Cloud, David S. "In Bentsen, Clinton Summons a Texas Titan to Treasury." CQWR. 12/12/92 p.3801

During his congressional career, he made the budget his area of special expertise, a skill which placed him in a leading position during the 1990 budget negotiations with the Bush Administration. His position of primacy at the OMB situated him in one of the most influential jobs in the Clinton White House, allowing him a considerable degree of influence over the shape of the whole economic agenda. The fiscal persuasions of these two appointees differed by a degree, Bentsen - in line with Clinton's own economic inclinations - was more predisposed to the stimulus side of the economic agenda, favouring tax incentives and business investments. Panetta on the other hand - more in line with the congressional agenda - was committed to long-term deficit reduction, with investments, while necessary and important, as a secondary consideration.

The deputies of both these men brought different skills to their respective appointments. Alice Rivlin, number two at the OMB, was the first director of the Congressional Budget Office after its formation in 1975. Her current position at the Brookings Institution, consolidated her credentials as a policy analyst and economic thinker. Roger Altman was, prior to taking up his position as Deputy Treasury Secretary, vice-chairman of the Blackstone Group, a Wall Street investment house.<sup>80</sup> His appointment, along with that of Robert Rubin, formerly co-chairman of the Goldman-Sachs Corporation, to the National Economic Council, sent strong signals to the financial markets of the administration's intent to deal with the country's economic problems as a whole and the deficit in particular. Gaining the confidence of the financial markets was of particular importance because their performance would be used as an indicator of the

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<sup>80</sup> Cranford, John P. "New Clinton Economic Team Veers Toward Center." CQWR. 12/12/92 p.3799



success of any policies which the administration was to implement.

For the period of the campaign the economic indicators which would show Clinton's campaign rhetoric as alarmist or at least inaccurate were not available for public consumption. Strong growth in the US economy was not apparent until mid 1992, the statistics for this were not available until well after the election in November.<sup>81</sup> However, it has been estimated that the US economy started to grow as early as the second quarter of 1991, casting doubt over the depth of the recession and the allegations of economic mismanagement charged at the Bush Administration during the 1992 election. It was not until several months after the end of the 1991 recession that the media began to focus its attention on the economic crisis, until this time they had been preoccupied with the Gulf War and the changing nature of foreign policy. The media's ability to set the issue agenda in politics is well documented; "Voters form opinions and make decisions...with particular attention to the information that is most accessible. In 1992, the bulk of the news about the economy was negative and became more negative as the campaign progressed."<sup>82</sup> Retrospective voting, media bias against George Bush and the late availability of economic growth figures conspired against the incumbent, as they are always judged on their performance in office, while challengers are judged on their ability to promote issues consistent with the electorates hopes and fears.

### **Satisfying Institutional Imperatives**

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<sup>81</sup> GDP growth July-September 1992 3.4%, October-December 1992 3.8% . "No Need For a Boost." The Economist 13/2/93 p.15

<sup>82</sup> Hetherington, Marc J. "The Media's Role In Forming Voters' National Economic Evaluations in 1992" American Journal of Political Science Vol. 40 No 2 (1996) p.375

The economic package as a whole was initially timetabled for release directly after the presidential inauguration. Unlike other policy initiatives which the administration would present during the first few months of 1993, the economic plan was restricted in when it could be presented for congressional deliberation. Timing for the presentation of this piece of legislation was particularly important because of its relationship with the federal budget. The Clinton administration had to present Congress with a budget at some point in the early months of 1993 following the inauguration, therefore, it was essential that all the constituent parts of the package be complete and ready for presentation at the same time. Setting a legislative agenda is the most important act a new President can undertake, for Bill Clinton setting the appropriate legislative agenda became a crucial test of his ability to manage not only political issues and campaign promises, but also the executive branch and the White House itself. It became apparent during the interregnum that it would be several weeks before the plan was ready for release on to the political stage and that the day after the inauguration was an overly ambitious deadline. The delay in delivering this key piece of policy to the nation was caused by a number of different factors reflecting the three main elements of the Clinton economic package: stimulus package, investments and deficit reduction.

In order to establish some parameters for the substance of Clinton's economic policy agenda, he took the unprecedented step of holding an economic summit in Little Rock just weeks after the election. What was intended to be a small scale gathering of academics and businessmen became a huge conference

which attracted considerable media attention. The guest list was diverse and there was provision for public participation via the telephone, but conspicuous by their absence were politicians. At this stage, Clinton's economic plans evidently did not include the Washington community.<sup>83</sup>

### **The Policy Framework**

The first dilemma for the administration appears to be that the three elements of the economic package do not represent a cohesive policy bundle, in fact the elements can easily be seen to be contradictory. Government spending in the form of economic stimulus programmes and infrastructure investments do not go hand in hand with tough deficit reduction policies. This inconsistency is magnified when examined in the light of the GDP growth figures for the second half of 1992 and the adjusted deficit projections produced by the Congressional Budget Office (CBO) in the third quarter of 1992. The original deficit projections produced by the Bush Administration in July 1992 were found to be \$189.2 billion less than the CBO's calculations for the deficit for the years 1994-1997.<sup>84</sup> The emergence of this new set of figures not only complicated the Clinton administration's promise to halve the deficit in four years, but also questioned the administration's motives for embarking upon a series of investments and stimulus spending.

With the deficit figures being higher than was initially expected, President

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<sup>83</sup> Fletcher, Martin. "Clinton Outlines Economic Targets" *The Times* 15 December 1992.

<sup>84</sup> Hagar, George & David S. Cloud. "Clinton Team's Similar Lines Focus on Deficit Reduction." *CQWR*. 16/1/93 p.122

Clinton was confronted by a number of opportunities and dilemmas. The Bush administration's miscalculations allowed Clinton to further capitalise on the perception that the previous administration had neglected domestic policy initiatives and the economy in particular. However, the new administration was also faced with a number of difficult choices regarding the size of the deficit reduction package and the size of the stimulus package. No Congress, regardless of its composition, was going wholeheartedly to support a very large spending measure with the deficit being even higher than initially predicted, regardless of the need for that spending. In addition to which, the Clinton administration's pledge to halve the deficit had not anticipated the deficit being almost \$200 billion larger.

Secondly, the administration had to justify its spending in the form of the economic stimulus package. Funding for the variety of programmes which came under this catch all title was available in the form of \$16.3 bn of appropriations left on the table after appropriators had completed their Fiscal 1993 appropriation bills. However the problem that the administration faced was that these funds were actually earmarked for defence and foreign aid spending rather than domestic initiatives. Budgetary rules allow funds to be moved from one spending area to another only in the event of an economic emergency or with a supermajority vote; i.e. Clinton had to demonstrate to appropriators that an economic emergency existed to justify the spending which the economic stimulus package entailed. Given the release of promising growth figures from 1992, the production of a convincing argument for passing the stimulus package would become increasingly difficult. The eventual size of the stimulus package was a

compromise by the Clinton administration in recognition of the fact that there was a definite limit on congressional generosity and that a smaller package would be more likely to gain support within Congress and provide the administration with a legislative success.

During the campaign, in an attempt to gain public support for a policy which would increase the deficit rather than reduce it, the stimulus package was promoted as a jobs bill, legislation directed specifically to help reduce unemployment. But which social group was this legislation aimed at? Studies of the American electorate have shown that the propensity to vote increases with educational level, age, and financial security. In 1992 66% of the unemployed attained a high school level of education or less, one third of whom were under 24. The question needs to be asked whether the Clinton administration was focusing its attention on those constituents who were already unemployed, or those who were increasingly concerned about their employment and financial security? The generation of thousands of new jobs would obviously benefit the unemployed, but it would also promote feelings of greater security among those middle class voters who were fearful of the recent trends in industry down-sizing and the increasingly unpredictable employment market. By the time the administration was promoting its legislative agenda the stimulus package had become, as Clinton stated in his address to a the Joint Session of Congress, “a down payment on the administration’s long-run investment program, for example our long-run investments plan puts major emphasis on ensuring all our children get a healthy start in life and come to school ready to learn.”<sup>85</sup>

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<sup>85</sup> Address by the President to the Joint Session of Congress 17/2/93.  
[<http://www.pub.whitehouse.gov>]

The continued level of high unemployment was a matter of concern to the electorate in general and Bill Clinton in particular. The level of economic growth which the American economy experienced in 1992 was effectively growth without job creation. Industries utilised their existing assets to increase production without increasing employment levels; employees were working harder to receive the same benefits of employment, personal incomes stagnated and job security was reduced. The Clinton administration needed some economic policies to be seen to be effective in the short term. A jobs bill would provide such evidence and demonstrate, in contrast to the Bush administration, the Clinton, 'New Democrat', administration's commitment to activist economic and domestic policies.

### **Selling Both Spending & Deficit Reduction**

The Administration's economic package was revealed on February 17, 1993 during President Clinton's State of the Union address. The President's economic programme was outlined as a trinity of policies: firstly a \$30 bn economic stimulus package; secondly, an investment package which would "correct an infrastructure deficit that allegedly had arisen under the previous Republican administrations"<sup>86</sup>; and thirdly, \$704 bn in deficit reduction over five years.<sup>87</sup>

During his address to the Joint Session of Congress President Clinton made this request,

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<sup>86</sup> Campbell Colin & Bert A. Rockman Eds. The Clinton Presidency: First Appraisals. p.269

<sup>87</sup> Ibid.

“I call on Congress to enact an immediate package of jobs investments of over \$30 billion, to put people to work now, to create half a million jobs; to rebuild our highways and airports, to renovate housing, to bring life to rural communities and spread hope and opportunity among our nation’s youth”.<sup>88</sup>

From this announcement, it would appear that the main thrust of the Clinton administration’s stimulus package would be job creation. However, upon closer examination it becomes clear that job creation was just one part of a much broader spending agenda. Less than half of the funds appropriated for this project would be dedicated to so called public works schemes and job creation. In the immediate spending portion the moneys were allocated thus:

- \$16.26 bn new budget authority
- \$3.24 bn transportation trust fund spending
- \$3.3 bn loans (FY 1993)
- \$ 12 bn tax cuts for business (FY 1993 & 1994)

Of these four elements the most important is the \$16.26 billion of new budget authority, i.e. the stimulus package. Rather than the bulk of the money being earmarked for job creation, it becomes clear that the stimulus package was in fact a vehicle for providing funds for social welfare programmes such as child immunisation, housing loans, meat and poultry inspection, and unemployment insurance. The breakdown of the actual spending schedule is a shadow of its initial promise.

- \$4 bn unemployment insurance
- \$4.2 bn (of which \$3.2 bn in trust fund) transportation

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<sup>88</sup> Address by the President to the Joint Session of Congress 17/2/93.  
[<http://www.pub.whitehouse.gov>]

- \$4.9 bn other construction and maintenance
- \$3.4 bn education
- \$1.5 bn other social programmes
- \$ 900 m business and technology programmes
- \$700 m summer jobs programmes for youths
- \$ 60 m variety of governments funded jobs<sup>89</sup>

Approximately 40 per cent of this spending was targeted at construction projects, providing funds for an industry with continued high unemployment. However, many of the programmes which have received funding bear little relation to the supposed focus of this spending initiative. The package appears to have been assembled from a collection of needy projects within each of the cabinet departments. As Elizabeth Drew suggests, “The OMB asked cabinet departments to suggest programmes that could get money into the economy without regard for coherence.”<sup>90</sup>

Following the address to the Joint Session of Congress, public and congressional support for the President’s budgetary initiatives was high.<sup>91</sup> The stimulus package garnered a high level of support from public officials at the local level; legislators, mayors, county officials. This grass roots support was purely the support of self interest as these officials were fully aware of the range of benefits which they could derive for their districts from the provisions of the stimulus package. This support was augmented at the national level through Senate and House liberal Democrats, in effect, equally those who believed that

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<sup>89</sup> Healey, Jon. “Clinton’s Stimulus Plan Is Picking Up Speed.” *CQWR*. 13/3/93 p.580-81

<sup>90</sup> Drew, Elizabeth. *On The Edge: The Clinton Presidency*. (1994) p.115

<sup>91</sup> Hagar, George. “Clinton Program Sails Ahead Despite Turmoil on Hill.” *CQWR*. 27/2/93 p.442



their constituencies had most to gain from the passing of the legislation.<sup>92</sup>

The presentation of the stimulus package as a supplemental appropriations bill confronted many legislators with a serious dilemma. The electorate had whole-heartedly endorsed deficit reduction as the most important issue of the 1992 election, and this elevated proposals to deal with the problem to a position of primacy on the legislative agenda. The Clinton administration was attempting to present the stimulus package concurrently with its budget proposals, which in turn would attempt to fulfil the campaign promise to reduce the federal deficit. Congressional legislative agendas necessitated that deficit reduction remained the primary objective, regardless of impulses to deliver the new President a positive result for his stimulus measures. Additionally, the varied provisions of the stimulus package provided distractions from the primary objective of the stimulus package - job creation. For many legislators job creation was almost of equal importance to deficit reduction. With this measure so well concealed beneath layers of unrelated social programmes, it became increasingly difficult for Representatives and Senators to justify increased spending in areas that were not job related.

The budget resolution, while not providing any new legislation, does provide Congress with the operational guidelines for that year's fiscal legislation, in other words it bound Congress to the overall figures for 1994 including the levels for appropriations, taxation and entitlements. By passing the budget resolution before the stimulus package Democrat leaders were able to demonstrate their commitment to cutting the federal deficit, and their willingness

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<sup>92</sup> Healey, Jon. "Even Foes Predict Some Version of Stimulus Plan Will Pass." CQWR. 27/3/93 p.736

to embark upon spending cuts in areas such as entitlements and tax increases on the wealthy. This commitment would stand them in good stead with their constituents when it came to authorising the spending measures included in the stimulus package.

### **The Stimulus Package: Republican Opposition**

Congressional work on the stimulus plan started almost directly after President Clinton's State of the Union Address. Democrat leaders worked hard to ensure that all ten appropriations subcommittees approved President Clinton's proposal by February 24. Key Democrats, including Senate Budget Committee Chairman Jim Sasser and Joint Economic Committee Chairman Representative David Obey, had lobbied the administration on the content of the stimulus package thereby ensuring their own involvement in the crafting of the legislation as a whole. After a quick start on the stimulus package, progress was slowed as the leadership within the House of Representatives decided that a different approach would be necessary in order to guarantee the passage of the legislation. The stimulus package was delayed until the House had voted upon the budget resolution because this would tie members to Clinton's full budget agenda, including some popular spending cuts. In addition to which, during the subcommittee stage, many Republicans embarked upon delaying tactics in a vain attempt to force a compromise on the provisions of the bill.

Throughout their attempts to delay the entire economic plan, the Republicans never seemed to be completely unified in their objective. Clinton's

deficit reduction plans were attacked because they focused too heavily on taxation rather than spending cuts to achieve their aim. However, Republicans themselves were divided over whether there were instances in which increased taxation could be justified, especially in the field of deficit reduction. More than anything else however, the Republicans' inability or unwillingness to provide an alternative to the Clinton plan reduced the effectiveness of their negative campaign. Republicans realised that, if they provided an alternative plan, the focus of the debate would move away from the broad ideas of budgetary policy to more specific issues such as welfare entitlements, food assistance, and child immunisation.<sup>93</sup> These spending areas would all be targets for Republican spending cuts, cuts which would be unpopular in comparison to the options which the Clinton administration were promoting.

A further limitation on the Republicans' assault on the Clinton economic plan was the differing rules and operating procedures of the House of Representatives and the Senate. Under House rules, budgetary policies are protected from major revision through amendment. In the Senate, no such protection is accorded the legislative proposal; Senate Republicans possessed considerably more scope for blocking or amending the stimulus package than their House counterparts. Furthermore, a slimmer Democrat majority in the Senate (57-43) than in the House (258-176) presented Democrats with an increasingly difficult task when attempting to construct the super-majority needed to override Senate filibusters. Democrats would be able to fend off Republican amendments with a simple 51% vote but in order to override a filibuster they would require

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<sup>93</sup> Hagar, George. "Clinton Program Sails Ahead Despite Turmoil on Hill." CQWR. 27/2/93 p.445

two thirds majority vote - 10 votes over their majority.

All of these factors made the progress of the economic plan in general, and the stimulus package in particular, a test of the new administration's ability to construct a workable congressional coalition, to develop policy which satisfied a variety of constituencies and to secure a significant legislative victory within the first few months of the administration. At the centre of congressional Republicans' opposition to the stimulus package was the actual necessity for such a piece of legislation given the strong growth figures for both 1991 and 1992. How could the administration claim that an economic emergency existed - belief in which was required for the funds for be moved from defence to domestic appropriations - when the economy was so obviously expanding? Republican attempts to slow the bill on their own failed, however, they gained the support of some House Democrats equally concerned with administration requests for further deficit spending. This development focused attention on the need for cuts in some programmes associated with the stimulus package and also the possibility that the administration would have to be willing to compromise in order to secure the passage of legislation through Congress.<sup>94</sup>

### **The Stimulus Package Struggle**

By March 9, House Appropriations committees had approved Clinton's stimulus package with virtually no changes. Democrats in the House of Representatives remained unified throughout the appropriations stage of the

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<sup>94</sup> Healey, Jon. "Rushed Stimulus Package Held Pending Spending Cuts Bill." CQWR. 27/2/93 p.448

debate but this did not prevent conservative House Democrats from trying to trim certain programmes. Only two changes were eventually made to Clinton's proposal: energy efficiency improvements at the Defense Department and loans to businesses on Indian reservations. This came to just \$11 million of the whole proposal. All in all, the House spent just 20 days considering the President's request, illustrating the possibilities of overcoming congressional gridlock when both the President and Congress have similar objectives.

The budget resolution and the economic stimulus package cleared the House of Representatives on March 18 by votes of 243 - 183 and 235 - 190 respectively, just over one month after it was first presented to the nation. It is claimed that the White House success can be attributed to ground work pursued by President Clinton prior to the floor vote.<sup>95</sup> Taking advantage of the Democratic party's links at the local level Clinton initiated grassroots lobbying for his stimulus package as well as to courting House members to secure their support.<sup>96</sup> Having overcome this first battle, the administration had then to prepare for a different type of conflict in the Senate.

The difficulties which the administration would face were numerous. Timing was of crucial importance given that the Easter recess was imminent. If the Senate was to break in the middle of its deliberations, any momentum which the stimulus package had gained would be lost. Such a delay would also affect the viability of some of the programmes which required appropriations to be approved early in order to enact summer programmes. As well as the agenda

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<sup>95</sup> Berke, Richard L. "Looking for Alliance, Clinton Courts Congress Nonstop." New York Times. 8/3/93 p.A1

<sup>96</sup> Healey, Jon. "Stimulus Bill Prevails in House, But Senate Battle Awaits." CQWR. 20/3/93 p.649

limitations, the new administration had to cope with institutional limitations. As previously mentioned the Democrat majority in the Senate, being slimmer, combined with differing procedural rules would make it more difficult for the Democrats to secure a vote on the supplemental bill. Individual Senators possess more power, and are more assertive and protective of their own agenda than members of the House of Representatives. Courting Senators takes considerable amounts of political skill and capital.

The Stimulus package was supported in the Senate by a number of moderate - liberal Democrats including Sen. Robert C. Byrd of the Appropriations Committee. He indicated that, like House Appropriations Chairman William H. Natcher, he would like to pass the Clinton package without alterations. However, other Democrat members of the committee had doubts about the content of the supplemental. So strong were these doubts that two leading Democrats, John B. Breaux and David L. Boren presented an alternative to the Clinton package, which would act as a compromise for many conservative Senators. The amendment aimed to tie half of the appropriations to congressional acceptance of the budget reconciliation bill and therefore the spending cuts contained therein.<sup>97</sup> The development of such events at the committee stage gave a strong indication to the White House that unlike in the House of Representatives, they would need to be more willing to compromise in order to secure the 50 votes needed for the stimulus to pass.

The amendment proposed by Boren and Breaux brought them into direct conflict with Byrd, undermining the Democrat position within the Senate and

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<sup>97</sup> Healey, CQWR. 20/3/93 p.651

allowing the Republicans to concentrate their efforts on finding a way to block the stimulus package. The Congressional Quarterly notes that the “Democrats saw it as a key test of Clinton’s authority, Republicans saw it as a battle over their role in the new era of Democrat dominance in Washington”.<sup>98</sup> In an attempt to secure more Republican support the White House trimmed down the stimulus package, cutting several programmes including summer jobs for youths, highway construction, child immunisation, AIDS treatment, construction of wastewater treatment facilities, meat inspection and small business assistance.<sup>99</sup>

However, these concessions proved insufficient for the White House to force a decision before the Easter recess. Democrat Senators also consistently failed to secure enough votes to cut off the debate and ultimately the Republicans filibustered the stimulus package to death. On April 21, after four failed attempts at cloture, Senate majority leader George Mitchell decided not to proceed any further with the stimulus package and conceded defeat. This decision dealt a huge blow to the Clinton presidency just 92 days after the inauguration.

Unwilling to accept total defeat, Senate Democrats pushed individual pieces of the stimulus package through on their own. Almost immediately the \$4 bn provision for extended unemployment benefits was passed by a voice vote; the House followed suit on April 22. If Congress had not acted upon this appropriation before the end of April, some 1.8 million Americans would have stopped receiving benefits. While Republicans were willing to block appropriations to social programmes which were not job related, it would have

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<sup>98</sup> Healey, Jon. “Republicans Slam the Brakes On Economic Stimulus Plan.” CQWR. 3/4/93 p.817

<sup>99</sup> Healey, Jon. “Some Projects Could Wither As Stimulus Bill Languishes.” CQWR. 17/4/93 p.950

been political suicide for them not to support appropriations for an important entitlement area. The failure of the stimulus package provided the Clinton administration with a practical illustration of not only the institutional differences between the House of Representatives and the Senate, but also the necessity, in this era of slim congressional margins, of seeking out bipartisan support for important legislative measures. Although the stimulus package was an integral part of the economic plan, its failure did not directly jeopardise the future of the budget or deficit reduction measures, these provisions were capable of standing on their own. However, the defeat of the stimulus package, and, by association, the investment initiative, gave added importance to the success of deficit reduction measures. The most important part of the Clinton package was left to stand alone and it was clear that the success or failure of this provision would mark the success or failure of the Clinton administration as a whole.

### **The Battle for the Budget**

The annual budget can be seen to be the single most important piece of legislation to come from the White House and Clinton's deficit reduction package was an integral part of the 1993 budget reconciliation. Whereas the budget resolution provided Congress with targets to aim at in their consideration of the annual budget, the reconciliation requires that the House and the Senate thrash out their differences with regard to appropriations, and that the President compromise his own objectives in order to produce a single piece of legislation detailing government spending and taxation for the next fiscal year. Deficit reduction



Clinton style required Congress to accept increased taxation on businesses and the wealthy, cuts in entitlements and a new fuel tax based on the heat content of fuels consumed (Btu).

All of these areas proved to be highly contentious and pitted members of both parties against one another: Democrats determined to hold on to entitlements, and Republicans equally determined to prevent tax increases in any form. The budget reconciliation can normally be viewed as a battle of wills; a demonstration of the power of congressional committees and sub-committees, and particularly their chairs; the differing personalities of the House and the Senate, and the differing agendas represented by the two institutions at either end of Pennsylvania Avenue. That is, the White House's objective to fulfil campaign commitments versus congressional loyalty to constituents and local interests.

In 1993, the additional factor of Republican Party unity within both the House and the Senate combined with a Democratic Party divided over loyalty to constituency, party or President, brought about a close decision on the fate of Clinton's attempts to reduce the federal deficit. From the outset, congressional Republicans refused to play any part in approving the Clinton budget proposals and the ultimate test for Clinton, therefore, was whether he was able to build the coalition necessary to secure the passage of the budget.

Clinton presented his budget proposal to Congress on April 8, 1993. Work on the budget traditionally starts annually in February. However, exceptional circumstances, brought about by President Bush's unwillingness to present his own detailed budget proposal, left Clinton with no budget to rework for his own ends. Most incoming Presidents use the budget of their predecessor

as a template, without such a template the Clinton administration started from scratch directly after the election.<sup>100</sup> As noted earlier, Congress diverted from its usual course and approved the resolution on the promise of deficit reduction before considering the stimulus package, thus allowing the administration time to work on its own line-by-line budget. The contents of the budget were little different from the condensed version of the proposal which was delivered to Capitol Hill in mid February. This new document outlined in detail programme by programme spending requests and policy proposals. Committee action on these proposals would finally lead to the thirteen individual appropriations bills and the single budget reconciliation.

The committee which centred its attention on crafting the huge deficit reduction bill was the House Ways and Means committee. This committee's primary responsibility is the shaping of taxation policy and health and welfare entitlements; consequently, it falls to this committee to find most of the savings. Deliberations began in early May in an attempt to meet the May 14 deadline, by which time it was apparent that the objectives of the White House and the members of the committee were very divergent. The membership of the committee was overwhelmingly Democrat but this did not necessarily mean that members would embrace all of Clinton's tax proposals. The most contentious areas were investment tax credits, the Btu tax, empowerment zones, and taxation on the overseas royalty income of multi-national corporations.

The reasons for the differing opinions were numerous; Clinton's attachment to investment tax credits goes back to his support of the stimulus

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<sup>100</sup> Hagar, George. "\$1.8 Billion Spring Supplemental To Be Paired With Jobs Bill." CQWR. 10/4/93 p.886

package and the tax credits which would have been available under the investment portion of that proposal, congressional resistance to it is related to their rejection of the stimulus package. As one of the largest energy consumers in the world, the US pays little for its consumption. Clinton's proposal for a tax on the consumption of energy in relation to its heat content was an attempt to tap an unused revenue source and also to tax users of wasteful fuels. However, Congressmen from a variety of states wanted concessions for particular groups, for example, farmers, industrial producers such as the aluminium industry, and energy producers who might be forced to absorb the tax if it could not be levied on the consumer. Without concessions for these groups, Congressmen refused to support any such energy tax. Representatives of distressed urban areas objected to Clinton's plan to designate empowerment zones with tax breaks and federal assistance, not because of what they would receive, but rather because they believed that it did not go far enough.

The single area of consensus, especially among Democrats was the planned increases in corporate taxation. The White House proposed to increase the tax rate from 34% to 36%, whereas the majority of Committee Democrats supported a 1% increase to 35%. Such a change in the rate would roughly halve the revenue raised, but still raise \$15 billion over five years. The largest revenue income increases were destined to come from income tax increases on high income earners. Republican members unified to prevent any increases insisting that the real losers in any income tax increases will be the middle classes who would be doubly hit by any energy tax.<sup>101</sup>

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<sup>101</sup> Cloud, David S. "Tension, Closed Meeting Mark Early Work on Clinton Plan." CQWR. 8/5/93 p.1129-1130

Republican attempts to push through amendments to the Btu tax and the Social Security tax were overturned wholeheartedly by the committee Democrats who united behind President Clinton's proposals. Following the example of the Ways and Means Committee, twelve other committees had turned the budget blueprint into \$340 billion of specific deficit reduction legislation by the appropriations deadline of May 14. This deficit reduction legislation closely resembled the whole package which Clinton had initially requested; it illustrated Clinton's vision for the US economy in 1998 and by promising to halve the federal deficit by 1998 Clinton placed much of his future in the success of this single important piece of legislation. The endorsement of the Ways and Means Committee and its Chairman Dan Rostenkowski, provided the Clinton administration with the reassurance that the House of Representatives would stand behind his budget and they were willing to work with him to secure its passage. The final obstacle for Clinton's budget in the House was the reconciliation of the thirteen appropriations bills by the Budget Committee and the final floor debate.

Successful passage could only be secured through coalition building on the part of the White House. It was evident from the committee stage that the Republicans would do little to assist the reconciliation or compromise on certain issues, therefore Clinton's only option was to ensure that all House Democrats were willing to support his programme. Wooing conservative Democrats to support the tax increases, and liberal Democrats to support entitlement cuts was crucial. Despite having control of the House, the Democrats did not have a large enough majority to be assured of winning. Concessions from the White House on

the size of the energy tax and cuts in entitlements were needed to guarantee enough votes for the reconciliation to clear the House. The final vote was just three Democrats away from failure, with thirty eight Democrats voting with the Republicans (219-213).<sup>102</sup> The passage of the reconciliation was far from the landslide for which the Clinton Administration was hoping. Certain agreements were made with House Democrats which held the Clinton administration to the content of the reconciliation to be produced by the Senate. One of these conditions was the presence of an energy based tax. With a slimmer Senate majority to work with the concessions and debates within the finance committee would be even more heated than in the House, and it looked likely that the White House would have to be more willing to settle for less than it had initially asked.

In the Senate's deliberations, the same issues which caused controversy in the House continued to make the passage of the budget reconciliation less certain. There was great impetus to reduce the levels of taxes and increase the spending cuts. The balancing act was very delicate as the White House could not afford to lose votes because of certain concessions designed to win votes. So difficult was the balancing act that the Btu tax, which would have raised \$72 billion, was dropped by the Senate Finance Committee in order to assure that the whole budget plan was not discarded. With a Democrat majority of just two (11-9) on the Finance Committee, it was important that all Democrats could be united behind the budget and the Btu tax was the most divisive issue, pitting energy states against farm states and both wanting concessions for their constituents.

The revenue gap caused by abandoning the Btu tax had to be filled with

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<sup>102</sup> Hagar, George & David S. Cloud. "Democrats Pull Off Squeaker In Approving Clinton Plan. CQWR. 29/5/93 p. 1341

revenue savings from other areas. With increasing uncertainty over whether another type of fuel tax would be on the agenda, Senators were seeking out other areas which could raise the additional funds to help Clinton reach his deficit reduction target. Medicare and Medicaid were two programmes to come under pressure, despite the fact that Medicare was due to experience a \$48 billion cut in its appropriations. House Democrats had protected these programmes on the understanding that the Btu tax would be taken up by the Senate. This U-turn threatened to de-rail the final conference bill as it would possibly “provoke a backlash from House liberals”<sup>103</sup> who had voted for the Btu tax because of the promise of its presence in the final Senate bill.

The final and most spectacular event in this whole deficit reduction saga was to come with the final Senate vote. President Clinton had found it difficult to keep all of the Senate Democrats behind his proposal. So much so that Al Gore had to cast the Vice-President’s tie breaking vote for the first time in seventeen years. With the passage of the deficit reduction bill through the Senate (50 - 49), President Clinton finally secured one of his major policy initiatives, despite receiving limited levels of support from Congress.

### **The Final Outcome**

The example of the Clinton economic package raises a number of interesting questions about policy initiation within the administration. The importance of the economic package was stressed from the time of the campaign

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<sup>103</sup> Cloud, David S. & Alissa J. Rubin. “Energy Tax, Medicare Cuts Focus of Senate Battle.” CQWR. 12/6/93 p. 1463

and illustrated by the care and consideration which Clinton gave to his economic appointments. More than in any other sphere of his administration Clinton worked towards greater ideological coherence rather than diversity. The White House and Executive Branch were organised and directed in a manner consistent with the demands of the policy area and familiar to external actors. The result of this diligence, however, was that the legislation which was presented to Congress was overwhelmingly rejected by a hostile and unified Republican party and reluctantly supported by the Democratic party. While the economic policy community within the administration were focused upon its task, its interaction with other, less organised, areas of the administration resulted in an incoherent message being passed from the White House to Capitol Hill. In addition, the economic package was put in the hands of Congressmen who were unfamiliar with the role of supporting presidential initiatives and fighting for them in the face of a united opposition. Weatherford and McDonnell cite these as just two of the several reasons why Clinton was unable to achieve all that he might have desired from his economic policy initiatives.<sup>104</sup>

Despite a united attempt from the Republicans to destroy the whole economic package, their only large scale success was forcing the administration to abandon the Stimulus Package, but later to resurrect a portion of it purely as an extension of unemployment insurance. Through the budget reconciliation Clinton secured his deficit reduction measures in line with his initial spending requests and tax increases (top individual tax rate raised to 36%, corporate tax raised to 35%,

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<sup>104</sup> Weatherford, M. Stephen & Lorraine M. McDonnell. "Clinton and the Economy: The Paradox of Policy Success and Political Mishap" Political Science Quarterly Vol. 111, No.3 (1996)

Social Security recipients to be taxed on 85% of their income, 8c per gallon gasoline tax and the expansion of the Earned Income Tax Credit). In addition this part of his investment package remained intact and passed through Congress.<sup>105</sup> This is not the record of a failed economic package, but it is a record that could have done with some improvement.

## Conclusion

The loss of the stimulus package, while a psychological blow for the administration and disastrous for the public's perception of the Clinton administration, was not a great loss for the economy. As has already been shown, the need for such a package had passed and it was always strongly debated whether a package of that size would ever have achieved all that it promised. Clinton's planning mechanisms during the transition, and exemplified by the economic summit, should have revealed the weaknesses in the policy rationale, however, the culture of box scoring presidential promises and achievements undoubtedly sustained presidential interest in continuing with the stimulus package.

In light of the level of economic growth in the final quarter of 1992, the focus of the administration upon reducing the deficit made both political and economic sense, but the results of such a focus would be long term, not satisfying the short term political needs which new Presidents constantly seek to address in the first months of their term of office. In terms of his transition, the stimulus package made political sense, demonstrating presidential activity and the ability to

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<sup>105</sup> Weatherford & McDonnell, *op. cit.*, p. 423



keep promises. However, the more central role of economic and budgetary policy within the annual legislative cycle necessarily took precedence. Clinton's experiences with his economic policy provided him with a glimpse of the challenges he would face in seeking to realise other aspects of his policy agenda.

**Table 1**

*Question:* Regardless of how you intend to vote, which candidate do you think would do the best job of solving the country's economic problems?

1992	<u>Clinton</u>	<u>Perot</u>	<u>Bush</u>
July	36%	28%	17%
12-14 October	37	29	23
16-17 October	36	30	21
31 October - 2 November	35	33	25

## **Chapter 5: Health Security Act**

Any discussion of the early policy choices of the new Clinton administration would be incomplete without a consideration of health care reform, a defining issue of the Clinton campaign. Clinton believed that the provision of health care services in the U.S. had reached a crisis point and the only solution was to bring about significant reforms. These reforms would bring an end to the piecemeal nature of care and coverage and reduce the ever rising costs of providing care to all members of society. Success in reforming the provision of health care in the United States could produce the defining element of the Clinton presidency, failure to secure this reform had the potential to jeopardise the future of his legislative agenda and brand the Clinton presidency as a failure.

The following discussion of Clinton's health care reform proposals analyses the practical and theoretical foundations upon which it was built, the organisational mechanisms by which the reforms were developed, the policy options available to the administration and the outcome of the deliberative process. Additionally, the influence of actors beyond the executive branch is related to the process of policy development and the substance of the reforms proposed. Finally, consideration is given to the role of health care reform in the transition process.

For Bill Clinton the 1992 election campaign was about change; change rather than more of the same. Central to this vision of change was health care reform. Providing some form of national health insurance for all Americans would allow Clinton to put in place the "great missing piece of the liberal agenda".<sup>106</sup> Health care reform, like many other issues, became part of the

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<sup>106</sup> Ranade, Wendy. "US Health Care Reform: The Strategy that Failed" Public Money and Management July-September 1995) p.9

Clinton agenda through his links to the Democratic Leadership Council (DLC) and it was introduced into the campaign agenda during the nomination contest. Health care reform was seen as a way of attracting middle class voters and would also be instrumental in achieving the goal of deficit reduction. Clinton's intention was to put a halt to the rising costs of health care for those with insurance, and to provide adequate coverage for those who had either insufficient insurance or no cover at all. The impetus for such an ambitious programme of reform came from a number of directions. Primarily, on an economic level, reform was necessary for a number of reasons: the health care system of the United States consumed 14% of its gross domestic product (GDP)-that is one dollar in every seven is spent on health care-and health care costs were rising at twice the rate of inflation; health insurance insecurity hindered the free movement of labour within the market; and rising costs of personal cover resulted in up to 60 million Americans having inadequate insurance to pay for their own health care in time of need.

The question facing any administration attempting to change the system of health care provision was whether controlling costs or securing universal coverage was more important. Such a dilemma was made more difficult when considered in relation to Clinton's aims to cut the federal deficit. Would cutting the cost of health care ultimately allow him to provide universal coverage without harming the progress of reducing the deficit? If this was not the case, would both objectives be attainable and should the administration even attempt to legislate for both?

Despite the limitations the economy placed on President Clinton's scope for reform within the health care arena, it soon became clear that it was his

intention to tackle both costs and coverage. It was necessary for Clinton to attempt to reduce costs to counter allegations of him being a 'tax and spend liberal'. Moreover, the political importance of providing universal coverage went beyond providing health care for the uninsured, universal coverage was also an important issue for middle class Americans. Under the present system the working poor and the elderly received medical coverage from the government through Medicaid and Medicare. Rising medical costs had had the greatest impact on the lives of middle class Americans who suddenly found themselves to be insufficiently covered-for a number of reasons-or had to constantly renegotiate with employers for more affordable health insurance. In consequence "As more of the middle classes experienced the fear and degradation the uninsured poor had lived with for years, calls for action became more urgent".<sup>107</sup>

### **Health Care Reform: A Historical Perspective**

Reform of the health care system has been attempted four times in the past: during the Progressive era, under the New Deal, as part of Truman's Fair Deal, and also by the Nixon Administration.<sup>108</sup> Reform during the Progressive era was an elite led movement which never generated popular support. Franklin D. Roosevelt considered providing universal health insurance during the New Deal, however tackling unemployment was his main priority and health care was never promoted as a priority issue. The most comprehensive attempts at health care reform have been those of Presidents Truman and Nixon. Health care was an

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<sup>107</sup> Ranade, op. cit., p.9

<sup>108</sup> Marmor, Theodore, R. Understanding Health Care Reform. p.6

important issue in the 1948 election and Truman's ambitions to provide health insurance for social security recipients eventually became reality as Medicare under President Johnson in 1965. Nixon attempted a mandated health insurance plan for employed Americans, the Comprehensive Health Insurance Plan, but it enjoyed little congressional support. Historical precedent, for health care reform existed, but, previous attempts did not achieve cost reduction or universal coverage for a variety of reasons. Since at least the 1970s when President Nixon proposed the Comprehensive Health Insurance Plan (1972), there has been little change in the circumstances of the crisis or in the solutions proposed to that crisis. Bill Clinton's campaign rhetoric in relation to health care was slim on specifics; uniting a disgruntled middle class with the under and uninsured around the concept of accessible and affordable health care.

Certain issues combined in the late 1980s and early 1990s to make health care reform thinkable. The collapse of communism in Eastern Europe and the Soviet Union gave greater saliency to domestic issues. There is evidence to suggest that citizens had been aware of the crisis in health care long before the nation's leaders began offering alternatives, they were uncertain of their job prospects because of the recession and acutely aware of the need to hold on to jobs which provided them with health insurance.<sup>109</sup> Insurance companies had become the victims of fraudulent billing practices by some doctors, laboratories and hospitals (who were themselves facing serious debt problems).<sup>110</sup> It was not

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<sup>109</sup> Brodie, Mollyann & Robert J. Blendon. "The Public's Contribution to Congressional Gridlock on Health Care Reform." Journal of Health Politics, Policy & Law. Vol. 20, No. 2 (1995) p.404: In a 1991 poll respondents stated that the cost of health care (65.1%) was a more serious economic and social concern than AIDS (57.5%), the federal deficit (52.7%) and crime (46.8%).

<sup>110</sup> Braithwaite, Jeffrey. "Health-Care Reform Under President Clinton: Issues, Ideas and Implications." Australian Journal of Public Administration. Vol.54, No. 1 (1995) p.103

until the 1992 presidential election and candidate Clinton's campaign pledge to tackle the health care problem in America that it returned as a major domestic issue with a distinctive policy profile.

What had become apparent to reformers was that all other western democracies managed to provide comprehensive health care for their citizens at a fraction of the cost spent by the United States.<sup>111</sup> In addition, it appeared that without reform the trend was going to continue and that the longer reform was delayed the harder it would be to make any kind of meaningful impact upon the process. Before any change to the system could be embarked upon a coherent plan had to be developed. In 'Understanding Health Care Reform' it is contended that to succeed such reform needs to be built upon three principles: firstly the three elements of the current medical crisis-cost, access, and quality; secondly that any reform has to have the ability to be implemented quickly; and thirdly, there is a need to be prudent in the choice of reform: "The stakes are too high...to put all our faith in one theory, model or mechanism."<sup>112</sup> Bearing this in mind, did the Clinton plan ever have any chance of success?

### **Creation of the Presidential Task Force**

In an attempt to put health care at the top of the legislative agenda during the first year of his administration, President Clinton announced the establishment of the Task Force on National Health Care Reform on January 25 1993 (just five

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<sup>111</sup> Per citizen expenditure on health care in the US in 1991 was \$2868, as compared with \$1915 in Canada, \$1659 in Germany, and \$1307 in Britain. Taken from data presented in Marmor p.3 supplied by OECD.

<sup>112</sup> Marmor, op. cit., p.14 - 15



days after his inauguration). He stated that the Task Force's mission was simple: "to build on the work of the campaign and transition, to listen to all parties, and to prepare health care reform legislation that I will submit to Congress this spring."<sup>113</sup> Rather than placing the responsibility for devising a plan for health care reform within one of the government departments such as Health and Human Services, he placed Hillary Rodham Clinton at the head of this extra governmental organisation. His initial promise was that Mrs Clinton and her team, which included Donna Shalala (Secretary of Health and Human Services), Lloyd Bentsen (Treasury Secretary), Ira Magaziner (White House Advisor), and other senior members of the White House staff would produce a health care plan by May 1, 1993. The keeping of this initial promise may have been crucial to the success of the whole reform agenda.

Since the passage of nepotism legislation following President Kennedy's appointment of his brother, Robert Kennedy, as Attorney General, Presidents have been prevented from placing members of their family in positions of authority within government. During the transition period it became apparent that Hillary Rodham Clinton would have a decisive role within the Clinton administration. During the transition it was decided that Mrs Clinton would establish her office in the West Wing of the White House<sup>114</sup> where the President and his top aides have their offices; the First Lady traditionally establishes her office within the East Wing. The announcement of her position, as head of the Task Force, came as little surprise to spectators throughout Washington D.C. This did not, however, prevent the initial debates over health care reform focusing

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<sup>113</sup> Statement of President Clinton. 25 January, 1993 [<http://www.pub.whitehouse.gov>].

<sup>114</sup> Drew, *op. cit.*, p.23

upon the nature of the planning body rather than the substance of the proposed reform.

The formation of such a Task Force is not unusual in American politics, Presidents throughout the modern era have used presidential advisory mechanisms of one type or another. Thomas R. Wolanin, in his book Presidential Advisory Commissions, identifies six properties which distinguish presidential advisory commissions from all other types of information gathering organisations: they are a corporate group created by a public act; which is advisory to the presidential; all members of which are appointed by the President; which is ad hoc; at least one member of which is public; and whose report is public.<sup>115</sup> The Clinton Task Force on health care reform fulfils these requirements. Therefore, it was not the lack of precedent for such an organisation which caused critical comment, but rather its membership and procedures.

In addition to the Task Force headed by Hillary Clinton, an interdepartmental working group was formed under the leadership of Ira Magaziner. Magaziner had been engaged, during the transition in defining the focus areas for any discussion of health care reform. The working group of some five hundred people, divided into thirty four sub-groups each addressing different questions within the health care reform area, worked in complete isolation from the rest of the policy process “to assemble information and ideas and to provide policy options for the Task Force.”<sup>116</sup> It was the role of the Task Force to use the information gathered by the working groups in its recommendations to the

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<sup>115</sup> Wolanin, Thomas R. Presidential Advisory Commissions. p.7

<sup>116</sup> Gregory S. Walden On Best Behaviour: The Clinton Administration and Ethics in Government. p.104

President; and only the Task Force would be able to provide the President with policy options. Health care experts from throughout the United States served on the Task Force's working groups, as did congressional and White House staff. The press, members of Congress and lobbyists were all by-passed by secret meetings. Before the Task Force had an opportunity to develop a plan for health care reform, its composition and the nature of its deliberations came under critical attention from some of the most powerful groups within Washington.

The process which Clinton chose to refine the health care policy debate came under formal attack before the Task Force had had an opportunity to hold any meetings. The Association of American Physicians and Surgeons, the American Council for Health Care Reform, and the National Legal Centre filed a lawsuit in the federal court on February 24, 1993. They claimed that the White House was violating Federal open meeting laws and sought access to their meetings and records. On March 10, 1993, US District Judge Royce C. Lamberth ruled that the "Task Force's informational meetings must be open to the public, on the ground that Hillary Clinton is not a federal employee".<sup>117</sup> However, the Task Force was exempt from holding open meetings when it was giving advice directly to the President. The distinction of the Task Force's responsibilities in this case was made more complicated by the presence of the working group. It was ruled that, as this was just a fact gathering organisation, it was exempt from the Federal Advisory Committee Act and their meetings could be held in private.

It was the intention of the administration not to reveal the identities of the consultants and staff aides who were working towards a legislative proposal.

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<sup>117</sup> Alissa J. Rubin "Hush-Hush Ruled No-No". CQWR. 13 March 1993 p.598

Under the 1972 Federal Advisory Committee Act, the decisions on policy and the discussions of the Task Force may be kept private, but the identities of the members of working groups and the information which they passed to the Task Force must be made public.<sup>118</sup> The March ruling was overturned by the Federal Appeals court on June 22, 1993, by Judge Lawrence Silberman of the District of Colombia Circuit Court, declaring that Hillary Clinton was a *de facto* federal employee and, therefore, it was legal for the Task Force to hold its meetings in secret. By this time the Task Force had been disbanded and the court's decision was a mere formality and had no effect upon the decision making process.

The legality of holding secret meetings was only one criticism which faced the Task Force. Special interest organisations contended that while the Task Force's meetings were secret they could not be certain who was providing information to the Task Force and whether their interests were being accurately represented to decision makers. As information providers themselves, special interests also believed that they would be unable to present valuable information to their own constituents without open meetings. Therefore, before President Clinton had even started his attempt at health care reform he had begun to alienate several important groups within the Washington community.

It can be argued that with such a complex task facing any organisation seeking to develop a legislative strategy for health care reform, the formation of an isolated group of analysts was the only strategy open to the Clinton Administration. Consultation with other interested parties would increase the amount of time needed to develop the policy, making it impossible to meet the

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<sup>118</sup> For a full discussion of the provisions and aims of the 1972 Federal Advisory Committee Act see Wolanin, *op. cit.*, p.71.

deadline of May 1993. President Carter, when developing his energy programme in 1977, faced similar problems. Placing the responsibility for policy development within the newly created Department of Energy-which had no Congressional liaison office at this time-Carter effectively isolated all other parties from the consultative process. However, having given the Department of Energy just 90 days in which to produce a comprehensive plan the Carter Administration realised that there was insufficient time in which to engage in consultation with interest groups and Congress.<sup>119</sup> The fundamental difference between Carter's Energy initiative and Clinton's health care reform is that the Department of Energy did present President Carter with a policy option by his stated deadline of April 18, 1977. The Clinton Task Force on health care reform was dogged by delays and the final plan was not presented to the President until four months after his initial deadline. The disconcerting similarity of these two cases is that neither of these two proposals successfully made it into legislative reality.

### **The Potential of the Reforms**

Meeting the original administration deadline of May 1 would have allowed the President to claim the development of a plan for health care reform as an achievement of his first one hundred days; failure to meet this dead line would cast doubts upon the effectiveness of the policy development process within the White House. The development of this policy option would also allow the administration to maintain its political momentum and present a coherent policy

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<sup>119</sup> Jones, Charles O. The Trusteeship Presidency. (1988) p.138

agenda to Congress. There were a number of reasons why the Task Force failed to present its findings to the President by the designated date. Some of these delays were preventable, others were not, however, these delays had certain implications for the future of the legislation in Congress.

Observers of the policy process would contend that the formulation of health reform policy within one hundred days was always an unrealistic goal. Policy of such complexity and with such far-reaching aims required far longer consideration and investigation than the administration had allowed. However, this has to be weighed against the need of expediency as President Clinton's limited political capital within the Washington community would start to dwindle progressively following his inauguration. Because of narrow Democrat margins in both houses of Congress, President Clinton could not hope to pass such a piece of legislation through Congress without bipartisan support; the development of such support would require considerable amounts of time and persuasion. Additionally, the organised interests of the medical profession, insurance companies and corporate business would all require concessions in order to give their support to legislation which would radically change their industry. It is apparent from the proposed date of presentation that the Clinton Administration believed that all of these obstacles could be overcome within the first one hundred days of his administration, and that a coherent and workable plan for fundamental change within a multi-billion dollar industry would be ready for him to transform into a credible policy option.

Health care, as an election issue, came second only to the economy and the deficit and one dilemma for Clinton after the election was how to channel

public support for what had the potential to become a minority issue in legislative terms.<sup>120</sup> The majority of Americans (60%) receive their health care insurance through their employer, a further 27% through government programmes such as Medicare, Medicaid and by virtue of their Veteran status. This leaves just 13% with no insurance at all. Clinton contended that health care reform would benefit many more people than those who lacked health insurance, but the problem he faced was convincing the majority of Americans, who already had sufficient health insurance, that these reforms were in their interests as well.

Any attempt at reform required the support of those who were content with their coverage and would most likely be reluctant to sacrifice their existing coverage for something untested and unproven. Furthermore, many Americans fail to see the state, or federal government, in a paternalistic light. Rather they strive to limit government's influence over the everyday lives of citizens. Therefore, universal health insurance, provided at whatever level by the state, would be a direct departure from the majority belief about the proper role of government. And possibly the largest limiting factor on Clinton's prospects was the group of people who would potentially gain most from the legislation. The uninsured would gain more than any other group as a result of health care reform. However, the uninsured are generally the unemployed, the poor, ethnic minorities and other marginal groups within society, the least politically active and those seen to be least deserving of help as they appear not to be helping themselves.

Clinton's strategy was to unite those who were becoming fearful for their

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<sup>120</sup> A Voter Research and Surveys Exit Poll cited in Pomper *op. cit.*, p.146 demonstrates that the economy was of concern to 28%, the deficit to 13%, and health care to 12.5% of the electorate. So while health care was the second most important issue, it came a poor second to the economy and the deficit.

health care security with those who had always been fearful. He sought to develop a notion of urgency in the need for change, that change now was essential for long term social and economic success and security. The gloomy figures of how health care costs were affecting the economy as a whole were well publicised, and people could be forgiven for thinking that there really was a crisis in health care provision, despite reasonable levels of satisfaction among those who possessed adequate coverage. If Clinton was unable to persuade the majority of the population that there was a necessity for change, he would have little hope of persuading associated industries that there was an urgent need for change and that they should sacrifice their position within the market for the overall good of the nation.

The tasks facing the Clinton administration were to change perceptions of the deserving and undeserving, and to question the influence of insurance companies over the quality and accessibility of health care provision for all Americans. Moreover, Clinton aimed to make health care provision a social responsibility rather than an individual responsibility; an entitlement rather than a privilege. It was also intended that all Americans take responsibility by contributing for their health care rather than continuing the current system where by the majority subsidised the emergency care of the minority with no health insurance.

### **Options for Reform**

Before any definite decisions were made about the shape and content of



the health care reform plan, a number of different options needed to be considered. The first decision was how to secure universal coverage; given that most other western democracies provided models for attaining this objective, the difficulty was not finding a method, but deciding upon one which would be most easily and efficiently implemented within the American economy. Clinton stipulated from the outset that the only option open for policy planners was managed competition, and that all research was to be undertaken with this fact in mind. The other options, 'single-payer' and 'pay-or-play', were passed over for a variety of reasons. The single payer option, as used in Canada and Great Britain, where the government rather than private insurance companies pay for health care was rejected primarily because it was perceived as being 'socialised medicine' providing few choices for consumers and providers. In addition to which it symbolised 'big government', an association which President Clinton was attempting to avoid.

Pay-or-Play would mandate employers to provide health care insurance for their employees (the play option) or enrol them in a public health insurance plan (the pay option). However this option would not necessarily guarantee universal coverage for the unemployed.<sup>121</sup> It is apparent that neither of these options were going to provide an American solution to the health care provision crisis. To some extent both models would exclude private insurance companies from the health care market place, and the federal government would be regulating not only a considerable part of Americans' lives, but also up to one seventh of the economy. Managed competition, although an ill-defined model in

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<sup>121</sup> Skocpol, Theda. Boomerang: Clinton's Health Security Effort and the Turn Against Government in US Politics. p.33-34

the early stages of the administration, was thought of as a compromise between these two models, which provided a market based, government regulated system to facilitate universal coverage. Moreover, it “preserved the illusion of a self-regulating market in health care”<sup>122</sup> and presented the possibility of incremental rather than radical change.

Managed competition, like the concept of national service, surfaced in the academic sphere during the 1980s. Alan Enthoven, a professor of economics at Stanford University, exported his health care reform ideas to Margaret Thatcher in the late 1980s. In the United States, discussion of managed competition was initially limited to an informal group of academics, representatives from large insurance companies, hospitals, the pharmaceutical industry and some corporations, who came to be known as the Jackson Hole Group, after the Wyoming ski resort where they met. The essence of their solution was to intensify market incentives to promote savings. As neither individuals or employers were cost conscious about their health care consumption, because either they did not directly pay for care in the case of the individual or they received tax breaks on the premiums in the case of employers, health care resources were over used.

The Jackson Hole Group recognised that the solution lay in making individuals more cost conscious by taxing them for their health benefits and disciplining providers by eliminating fee for service payments and forcing them into insurance owned managed care systems. The contention was that managed care operators would compete for employer contracts and therefore drive down

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<sup>122</sup> Marmor, *op. cit.*, p.155

costs.<sup>123</sup> The market would ensure that expensive and inefficient managed care systems would be weeded out and government taxation would ensure that employers chose reasonably priced health care plans for their employees. Managed competition had all the hallmarks of an 'All American' solution to market based health care reform; the insurance companies still retained control of the system, the concept of choice was still enshrined within the broad framework, and government involvement was limited to that of regulator rather than a provider.

The DLC, and the Progressive Policy Institute, developed its 'Progressive Plan' for health care reform around the concepts developed by the Jackson Hole Group. The theory of managed competition had been tested at a number of levels and the existence of health plans running under the system of managed competition provided practical illustrations of the possibilities for health plans which would cover the whole country. Managed competition had been working successfully in health care plans for public employees in California, Minnesota, and the federal government. These plans had consistently provided health care coverage for almost ten million people, controlled costs and reduced premium increases in relation to those experienced in the private sector. The coexistence of these managed competition driven plans with the current system provided a strong indication that managed competition could be applied effectively throughout the nation, but it could not be administered at the national level as this would not allow it to be responsive to the localised needs of the American population. The health care needs of inner city Americans are vastly different to those living in

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<sup>123</sup> Ranade, *op. cit.*, p.12

sparsely populated rural area and the DLC, along with the Jackson Hole Group, recognised that managed competition had to be managed at the local level.

### **The Clinton Option: Managed Competition**

Managed competition under the Clinton plan was designed to be operated at a local level. The administration anticipated that consumers would join together in local groups to purchase their health care. For some this would be through their employer if they worked for a large enough company, for others, it would be through a state based non profit organisation called a Health Insurance Purchasing Co-operative (HIPC). HIPC's would present a number of different plans to their customers who would choose the package most suitable to their health care needs. The bottom line was that all of the packages would be based around a standardised package of benefits set out at the national level, but consumers could choose packages with additional benefits by purchasing the excess themselves. Each year customers would have the opportunity to select a different plan if their existing cover did not fully fit their needs. In designing his plan Clinton used many of the principles espoused by the Jackson Hole Group, however, pressures from different constituencies within the health care field resulted in a hybrid of the original theory being developed. These compromises came together to form a 1350 page document which, in attempting to please everyone, pleased noone.

Clinton's involvement with the concept of managed competition can be linked again to his involvement with the DLC. Its plan, developed by the

Progressive Policy Institute and published in Mandate For Change, demonstrates how managed competition could reform health care through a “state based, market driven, pluralistic approach to achieve universal coverage and restore the link between health spending and health value”.<sup>124</sup> Its influence upon the final substance of the Clinton health care reform legislation is clearly demonstrated when the main principles of both plans are compared. Ranade has summarised the final legislative proposal and has broken it down into eight sections: universal coverage, standard benefits, regional health alliances, consumer choice, community rating, federal oversight, cost sharing, and cost containment.<sup>125</sup> The PPI’s plan almost mirrors these provisions, for example: it details the need for universal coverage on a number of levels; “Universal coverage is fully justified on the grounds of equity, humanitarianism, and individual opportunity. But it is particularly important, on grounds of efficiency, in a market based system.”<sup>126</sup> Also, there should be a “standardized package of benefits, to be set by a new national board.”<sup>127</sup> Both President Clinton and the PPI saw that the individual health plans should be managed at a local level. Clinton envisaged that ‘health alliances’ would be established at the state level to structure the market, the PPI “would make states the primary engine of reform, to spur responsiveness and innovation.”<sup>128</sup>

Managed competition appeared to guarantee reasonable prices for the consumer, universal access and quality care, all the requirements desired of any systematic reform programme. However, managed competition came under

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<sup>124</sup> William Marshall & Martin Schram Eds. Mandate for Change. p.110

<sup>125</sup> Ranade, op. cit., p.12-13

<sup>126</sup> Marshall & Schram, op. cit., p.112

<sup>127</sup> Ibid.

<sup>128</sup> Ibid. p.115

considerable scrutiny from organised interests and Congress. As it was so obviously a plan devised to meet the interests of a number of conflicting constituencies, it was unclear how such compromises could work as a coherent whole and whether it would actually provide relief from the problems which blighted the existing system.

When the legislative proposal was finally presented to Congress, its complexity, size, and detail only further compounded fears that the Clinton reform was going to be unworkable. The complexity of the 1350 page document made it impossible for client groups to identify with its provisions and difficult for the administration and Congress to sell the legislation to constituents. Furthermore, it failed to address the major issue of cost containment, by continuing the relationship between employment and insurance, consumers were not going to be more obliged to be cost conscious in their use of health care resources.

The final outcome of months of deliberations failed to meet the expectations of all but a few within the health care arena. Even for strong supporters of health care reform within Congress, there was little attachment to legislation that they had no involvement in crafting. If the legislation was passed, it would secure coverage for the uninsured, but at what cost to those who already had coverage? The individual costs and benefits of the legislation were too ambiguous for individuals to determine whether they would be better off. Furthermore, the highly successful negative promotional campaign run by a variety of organised interests increased public doubts about the benefits, costs and effectiveness of reform.

## **The Influence of Organised Interests**

Organised special interest groups within the health care arena consistently caught the administration unawares. The Task Force, despite the media depiction of their methods, embarked upon a consultative process with interest groups but only later in the deliberative process. Delays in consultation initially created doubts about the Task Force's methods and motivations, delays in presenting the facts to the public gave special interests the opportunity to lobby both in Washington and at the grass roots level. The timing of health care reform legislation proved to be inopportune at a number of levels, and special interest groups exploited the numerous delays and public perceptions of the reform agenda.<sup>129</sup>

Organised special interests used a variety of different methods to confuse the health care debate and to consistently erode public support for the presidential initiative. The administration throughout this period appeared totally incapable of producing any effective response to these negative campaigns. Only the foolish would ignore the fact that such opposition was inevitable and fail to have planned for such a contingency, but the Clinton administration was consistently caught unawares. In attempting to craft a piece of legislation to please certain constituencies, others were excluded; for example in settling for managed competition and the subsequent development of a variety of Health Maintenance Organisations (HMOs), the administration courted the favours of the major insurance companies, many of whom had already formed their own HMOs in

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<sup>129</sup> Peterson, Mark A. "The Health Care Debate: All Heat and No Light." Journal of Health Politics, Policy & Law. Vol. 20, No. 2 (1995) p 428

some areas. This policy decision put in jeopardy the existence of smaller and medium sized insurance companies, who believed that they would never be able to compete in the controlled market of managed competition. The response of the lobby group for such companies, the Health Insurance Association of America, was to mount one of the most effective negative media campaigns. Focused at the grassroots level, what became known as the 'Harry and Louise' commercials depicted Mr & Mrs Middle-America - Harry and Louise - discussing their doubts about the benefits of the Clinton Health Care Security Act. The questions they asked each other mirrored the concerns of average Americans and, in consequence, raised similar doubts in the minds of the electorate. One observer has noted that the Harry and Louise commercials were "skilfully manipulating our deepest fears and beliefs to maintain their privileges."<sup>130</sup> The administration's rebuttal to the Harry and Louise advertisements parodied the scenario with President Clinton and Mrs. Clinton as plaid shirted Middle-Americans explaining the reform agenda. Rather than being the driving force behind reform, the Clintons were in the uncomfortable position of having to respond to an agenda set by special interests. The administration never provided an adequate counter campaign to inform the public and was never able to regain the levels of support it had originally enjoyed throughout the election campaign and the early weeks of the administration.

Lobbyists did not just focus on grassroots support for the legislation, the pluralistic nature of American politics allows for far more effective and direct action. The National Federation of Independent Business, the representative

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<sup>130</sup> Marmor, op. cit., p.205



organisation for the owners of small businesses, mobilised its members to lobby Representatives in their home districts. The power of businessmen within the local community and the impending Congressional elections in November 1994 gave many congressmen food for thought, forcing them to consider whether supporting the President was as important as their own reelection. Small businesses were concerned with the provision within the Health Care Security Act, which would mandate them to provide insurance for their employees, whereas previously they had been exempt.

It would be wrong to assume that only opponents of the Clinton proposal were working hard to promote their cause. The proposal had 'heavy weight' support in the form of the AFL-CIO and the large insurance companies, but these groups were never vocal and the administration did not seek to mobilise their resources in support of the legislation. There are a number of possible reasons for this: firstly, the complexity of the legislative proposal was so great that the administration found it difficult to counter opposition in a clear and concise manner. Explanations of the proposal always appeared to be confusing and jargonistic where as opponent's criticisms were always straight forward and simple. Secondly, the administration was always ill prepared for such criticisms and unaware of the resources available to the opposition. Given that Clinton came to the presidency better prepared than many of his predecessors, how could he have been so short-sighted?

The answer to that damning question can be found in a complex combination of personal, administrative and institutional influences. Primarily, the failure of the administration lies in the fact that political impulses override policy

preferences; that is President Clinton's desire to complete the jigsaw of American social policy was greater than his ability to develop a systematic approach to fulfilling his legislative agenda. His attention was focused on the big picture of health care reform rather than the essential policy details. Competing political influences distracted the administration from its main objective of developing a radical reform of the health care industry. The pluralistic nature of American politics ensures that a variety of client groups are guaranteed access to the policy making process and, in turn, influence the development of legislative proposals. The size and complexity of the Clinton proposal is evidence of the compromises that the administration felt it needed to make in order to produce a piece of legislation that they believed could be put into practice. These compromises are, in turn, a reflection of the inconsistencies within the administration itself and the task it was undertaking.

In attempting to legislate for both costs and coverage the administration came up against its first policy inconsistency. Universal coverage came with a large price tag and had to be paid for by somebody. Increasing personal taxes and 'big government' programmes were not an option for a President who was consistently trying to avoid the traditional identification of a traditional 'tax-and-spend liberal'. In trying to prove his 'New Democrat' credentials, President Clinton settled on a proposal which was riddled with compromises designed to satisfy influential constituencies with disparate objectives, very few of which would result in the development of affordable universal coverage.

The second inconsistency can be found within the administration itself. It is well documented that the President and the First Lady have slightly different

approaches to the solution of social problems. While Bill Clinton is attempting to assert a more centrist approach to policy making, the First Lady can be seen to have a more traditional, liberal approach. This dichotomy is further complicated by the presence of Ira Magaziner as one of the chief architects of policy options for the health care reform. As a 'Friend of Bill', involved in researching health care as a campaign issue during 1992, he was placed in a position of authority during the transition and later within the administration. His political alignment was closer to that of the President than Mrs. Clinton, but his single minded pursuit of a managed competition solution to the health care crisis insured that any alternatives were given little consideration within the working groups and later the Task Force.<sup>131</sup>

In 1993, the President's legislative agenda was ambitious, with a number of his own initiatives and some residual initiatives from the Bush administration. In the first few months, both President Clinton and Congress were preoccupied with the Economic Stimulus package, and its defeat in April made the release of another large piece of legislation politically unwise. When the President finally outlined his proposals for health care reform before a joint session of Congress in September, it was well received, but still not ready for presentation to Congress. Two months later when President Clinton finally presented the legislation to Congress for deliberation, they were again preoccupied, but this time with the North American Free Trade Agreement (NAFTA). Large pieces of legislation require single minded attention. Part of the failure of the economic stimulus plan was due to the fact that other policy initiatives; gays in the military and the

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<sup>131</sup> Drew, op. cit., p.190

formation of the Task Force on health care reform distracted the administration. And not only was the Clinton administration distracted, Congress found it equally difficult to work effectively on a number of contentious and complicated pieces of legislation. Not providing Congress with a single goal to aim for during the early months of the administration can be seen to have influenced the long term success of the Clinton legislative agenda.

The Clinton administration's lack of success with health care reform cannot be solely attributed to the actions of the administration, individuals within the administration and other actors within the Washington political community. The nature of the American political system inhibits the formulation, deliberation and implementation of large scale reform. The institutional framework of American government severely limits the President's ability to bring about sweeping reform. In the case of health care this was further complicated by the administration's attempts to develop a piece of legislation which sought to produce radical reform through a single act of policy making with little consultation with the rest of the policy making community; the two principles proved to be wholly incompatible.

Health care reform during the Clinton administration was billed as America's last best hope for decisive public policy making in the health care arena. Handled differently, this could have been the case. The impetus for reform was in place in the form of public, corporate and institutional support. The opportunity was lost due to strategic errors on the part of the Clinton administration, and such strategic errors have become the hallmark of this administration.

## Conclusion

As a test of transition performance, the Clinton experience with health care reform reveals several fundamental flaws in both the administrative and policy strategies. The single, most damaging element in the policy process was the sheer scope of the reform agenda. In seeking extensive reform of a multi-billion dollar industry, the new administration failed to consider the simple fact that reform was not desired by the majority of those either providing or consuming health care services. As an issue, universal health care provision additionally failed to consolidate support from all areas of society.

The early preparation work, provided by the PPI abstracted the policy development from the transition process. The ground work for the reforms was not performed by the Pre-Transition Advisory Board and, therefore, integration into the transition structures during the interregnum did not take place smoothly. In structuring his White House to develop the reform strategy, Bill Clinton used a complex Task Force structure that cut across normal administrative boundaries. While a useful arrangement to provide the bigger policy picture, it did not reflect the institutional needs of to separate the responsibilities of individual departments who would be required to implement reforms or organisational imperatives associated with allocating congressional committees and appropriations. Moreover, the complicated structure and covert nature of the Task Force itself did little to accommodate the production of a legislative proposal that could be owned or adopted by any other actor than those directly involved in its formation.

The timing of the Clinton legislative agenda as a whole was not tempered with any recognition of the workings of Washington or of Congress. The calendar of consideration was constantly extended in response to the demands of competing legislative priorities and elaborate committee assignments. The analogy of President Carter's energy policy is again appropriate as its complexity became its downfall in Congress.

Health care reform was the victim of not only the incrementalist nature of the American legislative process, but also of the transition process itself. Bill Clinton's policy focus was never incremental and his desire to see the wholesale reform of health care influenced his choice of the task force and Hillary Clinton's involvement. The underlying influence budgetary policy on the timing of the wider legislative agenda necessitated that announcement of any health care reform initiative be pushed into the autumn of 1993 rather than the spring/summer as initially envisaged by President Clinton and the task force. The process of preparation and organisation for the Clinton health care reform initiative greatly influenced its content, timing and the nature of public and institutional opinion.

The case of health care reform exemplifies the consequences of not designing appropriate White House structures, integrating policy into a manageable legislative agenda or being a reflective practitioner. The impact of the failure of health care reform was felt throughout the first Clinton term and was exemplified by the Republican congressional gains in the 1994 mid-term elections.

## **Chapter 6: Executive Orders as Policy- Making Tools**

The aim of every President is to bring about policy success and deliver on campaign promises. The majority of these policy priorities will be developed through the traditional policy route of presidential announcement, proposal to Congress, congressional debate and hopefully the emergence of a bill after the final floor vote. But many Presidents have found that this may not be the most effective or efficient means of achieving the desired policy ends. Many factors can come together to make the use of traditional policy pathways impossible or undesirable, these include: divided government, unpopular policy objectives, highly contentious policy issues and political expediency.

In an attempt to highlight the extra-constitutional processes at work within presidential policy-making, this chapter seeks to examine the status and efficacy of Executive Orders within the American political system. From the early stages of his candidacy, Bill Clinton promised, if elected, to make use of this executive policy tool to reverse the ban on homosexuals serving in the military and to lift restrictions on abortion practices and counselling. Through examining these cases conclusions will be drawn concerning the desirability of Executive Orders as policy making tools and the appropriateness of Executive Orders in connection with the issues selected by the Clinton Administration.

Since the presidency of George Washington, alternative means of policy-making have been employed by the executive branch to overcome difficulties associated with policy making in controversial or contentious issue areas. Although undefined by the constitution, presidential proclamations and Executive Orders have given Presidents rule making powers outside the legislative jurisdiction of Congress. Proclamations and Executive Orders derive their



authority not from the constitution or statute but from precedent. Such precedents have been set during times of social and political upheaval such as war and economic depression. Once established, such a powerful tool is hard to ignore, let alone not use and therefore Executive Orders continue to be a powerful weapon in the presidential armoury.

In examining the extra constitutional nature of such presidential power, Michael Foley asserts that ‘constitutional abeyances’<sup>132</sup> are part of the fabric of the American political system. He argues they are endorsed by the actions of the Supreme Court and “are unwritten because it is recognised that any attempt to define them would be not merely unnecessary or impossible, but positively misguided and even potentially threatening to the constitution itself.”<sup>133</sup> Even after periods of great crisis, for example the Watergate crisis, constitutional abeyances continue to occupy important positions within the framework of executive power.

### **The Historical Position of Executive Orders**

For newly elected Presidents, Executive Orders are an attractive instrument for policy change. They can be instantaneous in their effect and allow Presidents to shape their immediate political environment (the bureaucracy and the Executive Branch) in such a way as to maximise their chances for success. The negative aspect of Executive Orders is that they can be perceived as a policy

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<sup>132</sup> “implicit understandings and tacit agreements” Foley, Michael. The Silence of Constitutions p.9

<sup>133</sup> Ibid.

tool that operates outside the strict constitutional role of the presidency and that sustains the usurpation of power from the legislative branch. Whichever perspective is taken, it is clear that Executive Orders have the ability to change the course of any President's term of office.

The official history of Executive Orders and presidential proclamations is very sparse. For over one hundred years there was no central record of Executive Orders, they were not numbered or catalogued and their history has been described as, at best, chaotic.<sup>134</sup> In 1907, the State Department collected together Executive Order documents from 1862 and numbered them for ease of reference. Documents uncovered from before 1862 are also numbered but it is believed that there are tens of thousands of Executive Orders that still remain undiscovered. Since 1936, Executive Orders have been published in the Federal Register.

Despite the undocumented and disorganised nature of their history, Executive Orders are powerful policy making tools. Although mainly used for administrative purposes, Executive Orders have been used by Presidents to bring about fundamental political change. Lincoln suspended the writ of habeas corpus during the Civil War and declared the emancipation of the slaves with Executive Orders. Franklin Roosevelt authorised the relocation of thousands of Japanese Americans from Western States at the outbreak of the war in the Pacific. These are examples of extreme cases in times of national emergency. In more peaceful times, Presidents Kennedy and Johnson used Executive Orders to improve the progress of Civil Rights reforms in the 1960s. The use of Executive Orders allows Presidents to pursue a variety of ends; they are instruments of both reform

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<sup>134</sup> Woodward, Mary. "Executive Orders: A Journey". Legal Reference Services Quarterly. Vol. 10 No. 3 (1990) p.128

and control within the American political system.

### **The Limits on Use**

A strict definition of precisely what constitutes an Executive Order is hard to find. With no constitutional or statutory guidelines to follow, scholars are in agreement that “there is no strict definition of an Executive Order”.<sup>135</sup> This makes the study of this particular part of presidential policy making particularly difficult. Executive Orders do not differ from any other presidential proclamation or document other than the fact that they are called Executive Orders. Used mainly in the area of executive administration, “policies established under Executive Order have the force of law...they prescribe individual and institutional behaviour.”<sup>136</sup> However, critics of presidential power claim that the use of Executive Orders moves the President into the congressional realm and violates the principle of the separation of powers.<sup>137</sup> In defense of their use, Presidents claim their authority through the principle of ‘executive power’, the ‘take care’ clause and the commander in chief power outlined in the constitution, but strictly, “executive orders are a source of law only when they draw upon the constitutional powers of the President or powers expressly delegated by Congress.”<sup>138</sup>

The limits of policy making by Executive Order are considerable. It is only as powerful as the prestige of the President and the willingness of the subject

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<sup>135</sup> Woodward, M. *op. cit.*, p.126

<sup>136</sup> Morgan, Ruth P. The President and Civil Rights: Policy Making By Executive Order. p.4

<sup>137</sup> Ibid Hugo L. Black ( Assoc SC Justice) opinion in *Peters v. Hobby* 349 US 331, 350 (1955)..

<sup>138</sup> Fisher, Louis. Constitutional Conflicts Between Congress and the President. p.113

to conform to the orders, obstruction and delaying tactics are common in bureaucracies when unpopular orders are given. If the Executive Order requires an appropriation for its completion, congressional approval through legislation is necessary. If an Executive Order is unpopular, it will firstly reflect negatively upon the President and secondly it will be hard to ensure the co-operation of those required to administer it. Executive Orders are powerful policy making tools but they have limitations and cannot be used in every policy area with equal success. Additionally, the role of the bureaucracy is a powerful check on the implementation of Executive Orders. Presidents may issue Executive Orders, but they are reliant upon agencies and departments to implement fully these declarations which have force of law but are not part of the legislative process. Finally there is a clear distinction between the scope of Executive Orders when applied to foreign and domestic policy. Congress traditionally accords the President greater latitude in the area of foreign policy, this is further extended to Executive Orders concerned with foreign policy.

Executive Orders are most frequently used to ensure the smooth running of the federal bureaucracy and the creation of new executive agencies, investigative committees and commissions. Being primarily an administrative tool, Executive Orders do not generate a high level of public, congressional or academic attention. Publicity is only accorded to those Executive Orders that attempt to achieve policy outside of the administrative arena and therefore have a wider social impact.

## **President Clinton's Executive Orders**

In 1992 issues which had never previously attracted or demanded presidential attention came to the foreground of American politics. As a presidential contender Bill Clinton made promises to certain constituency groups who would later demand action. This was well demonstrated by his pledge to bring greater diversity to government by placing more women, African-Americans and Hispanics in high level political appointments. This pledge consumed much of Clinton's energies as President-elect, however, it was not the issue which consumed public, congressional and presidential attention during the first weeks of the transition and the new administration.

President Clinton promised to use Executive Orders in two contentious policy areas; ending the ban on homosexuals serving in the military and reauthorising federal funding of abortion clinics, abortion counselling and foetal tissue research. These were areas in which the previous two Republican administrations had tightened military and federal regulations and which were identified as ripe for reform by the new Democrat administration. While the use of Executive Orders in these policy areas has historical precedent, their contentious nature proved to be an obstacle to speedy policy making.

## **Campaigning for Military Reform or Gay Civil Rights?**

A campaign pledge to end the ban on homosexuals serving in the military,

announced at a meeting with gay leaders in October 1991<sup>139</sup>, spiralled into a potentially major conflict between Congress, military leaders and the President by January 1993. The background to the issue is complex and extends beyond the bounds of the election campaign. For many groups representing gay interests, the ban on homosexuals in the military was as much an issue of civil rights as the issue of racial integration and desegregation within the military. The constitution provides certain protections for Americans, equality is guaranteed under the law, but many believe that homosexuals do not receive the same level of protection as their heterosexual counterparts. Lifting the ban was seen as the first step towards equality for those campaigning for gay civil rights.

The historical precedent of African-Americans and women in the military provided activists with examples of how minority groups could be accepted into military culture and how presidential authority could be used to achieve such acceptance. When examined more closely these examples do not provide such useful precedents. In both cases, the integration of women and African-Americans required no changes to military law. This de facto segregation had no substance in military law and thus integration became the responsibility of military commanders rather than the legislature or the judiciary. Furthermore, unlike sexual orientation, race and gender are easily recognisable rather than latent traits. As General Colin Powell stated "Homosexuality is not a benign behavioral characteristic such as skin color. It goes to the core of the most fundamental aspect of human behavior."<sup>140</sup> Being able to identify the focus of integration or

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<sup>139</sup> Drew, *op. cit.*, p.42 The meeting took place in Los Angeles between Clinton, David Mixner and ANGLE, a group of prominent gay leaders and fund raisers. At this time Clinton was standing 3rd in public opinion polls behind Paul Tsongas and Jerry Brown.

<sup>140</sup> Quoted in Drew, *op. cit.*, p.43

desegregation changes perceptions of the outsider group, reducing feelings of threat. Furthermore, it is easier to monitor the progress of such policies given the visibility of differences in race and gender. The desegregation or integration of homosexuals was more problematic given the legal provisions regulating sexual conduct under the Uniform Code of Military Justice (military law) and the legal restrictions placed on homosexuals in the civilian world.

The sexual conduct of all military personnel is closely restricted when on base or while on duty. There are constraints upon male and female service personnel's relationships to the extent that any behaviour unbecoming can lead to expulsion from the military.<sup>141</sup> Homosexual behaviour or the public acknowledgement that one is homosexual is completely banned and will also lead to a dishonourable discharge. The behaviour of all personnel is governed by the Uniform Code of Military Justice and any changes to those regulations require a change of law, which, of course, is the role of Congress.

Homosexuals have further legal restrictions placed upon them under state or federal law, there is no age of consent for homosexuals under federal law and anal and oral sex are illegal in many US states.<sup>142</sup> Changes in military law, therefore, would not afford gay military personnel with any greater protection of their civil rights and further amendments to the US Constitution would be required to guarantee them equal protection under the federal law.

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<sup>141</sup> A good example of this policy is the case of Lt. Kelly Flinn. The first female B-52 bomber pilot in the US Air Force who was discharged for having an adulterous affair with a civilian while serving in North Dakota. See Dejevsky, Mary. "Female B-52 pilot quits over charges of adultery". The Independent, 19/5/97,

<sup>142</sup> Some states make distinctions between homosexual and heterosexual sexual conduct, some do not. There is little consistency in the individual pieces of legislation.

## The History of Homosexuality and Military Service

The history of homosexuals in the American military is as old as the revolution, but the history of the ban on homosexuals in the military is a twentieth century phenomenon. Recognition that the presence of gay personnel in the military was unacceptable emerged formally during World War I and the focus of concern was sexual conduct. The Articles of War (1916) define assault with intent to commit sodomy as a felony under military law. However, it was not until after World War II that regulations specifically banning homosexuals from military service were enforced.<sup>143</sup> The rationale behind banning homosexuals was that they posed a threat to military security, troop morale and good order. Ideas of homosexuality being an ‘unnatural state’ and a belief in the predatory nature of gay men who would corrupt or abuse other servicemen was also very dominant at this time.

Changes in psychological theory and assessment procedures at the recruitment stage led to the eventual tightening of regulations. However, the tumultuous mid-century years and increased demands upon the American military resulted in there being certain periods of time during which the need for manpower was of greater concern than strict adherence to the regulations. American involvement in World War II, the Korean and Vietnam wars resulted in the presence of gay servicemen being more tacitly tolerated than explicitly accepted when the supply of men to fight was short.

Restrictions were further formalised in 1982 when the Pentagon directive

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<sup>143</sup> Meyers, Marian. “Defining Homosexuality: News coverage of the ‘repeal the ban’ controversy.” *Discourse and Society*. Vol. 5 No.3 (1994) p.323



explicitly stated that homosexuality was completely incompatible with military life because of morale, discipline and security concerns.<sup>144</sup> In the wider legal environment the debate about gay civil rights; the right to privacy and personal liberty, have been considered by the Supreme Court. In *Bowers v. Hardwick* (1986) the Supreme Court considered the constitutional basis of a Georgia State law prohibiting sodomy and whether there should be Due Process protection of gay rights. In a 5-4 decision against the respondent, Michael Hardwick, the Court determined that the constitution gave no protection to the private sexual activities of homosexuals and upheld the right of States to regulate such conduct. In delivering the opinion of the Court Justice White said

“The issue presented is whether the Federal Constitution confers a fundamental right upon homosexuals to engage in sodomy and hence invalidates the laws of many States...Proscriptions against that conduct have ancient roots...Sodomy was a criminal offence at common law and was forbidden by the original 13 states when they ratified the Bill of Rights...Against this background, to claim that a right to engage in such conduct is “deeply rooted in this Nation’s history and tradition” or “implicit in the concept of ordered liberty” is, at best, facetious...We do not agree, and are unpersuaded that the sodomy laws of some 25 States should be invalidated on that basis. Accordingly, the judgement of the Court of Appeals is reversed.”<sup>145</sup>

This decision, while not directly impacting upon the gays in the military debate, is illustrative of the conservative nature of institutional opinion towards gay rights during the Reagan years. In his dissent, Justice Blackmun noted that rather than endorsing homosexuality, sodomy or a “crime against nature”<sup>146</sup> a positive decision from the Court would demonstrate that

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<sup>144</sup> Ibid.

<sup>145</sup> *Bowers v. Hardwick* (487 U.S. 186 1986) [<http://www.uscaselaw.com/US/487/186.html>]

<sup>146</sup> *Opcit.* Chief Justice Burger concurring opinion.

“depriving individuals of the right to choose for themselves how to conduct their intimate relationships poses a far greater threat to the values most deeply rooted in our Nation’s history than tolerance of nonconformity could ever do”.<sup>147</sup>

The public presidency of Ronald Reagan was infused with rhetoric demanding the removal of government from the everyday lives of Americans. However, where socio-moral issues were concerned, the administration emphasised the duty of the state to regulate private conduct in areas such as abortion, school prayer and gay civil rights. Much of this can be linked to the growing popularity of the Christian Right and their acceptance into the mainstream of the Republican Party during the mid 1980s. Their presence within the GOP greatly influenced the temper of socio-moral attitudes in government and, consequently, the shape of social policy. It was, in part, in response to this social conservatism that the Clinton campaign adopted the issue of changing the status of homosexuals in the military.

### **The Campaign Promise**

The aim of the Clinton pledge was to end restrictions upon homosexuals entering the military and to separate the notions of status and conduct under military law. This would allow homosexuals who observed the sexual conduct regulations to serve without fear of dismissal for being homosexual. The means of achieving this goal was never specifically explained. His objectives were, however, directly contrary to the wishes of military leaders and appeared to be too liberal for many congressmen. The combination of these two factors, together

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<sup>147</sup> *Opcit.* Justice Blackmun dissent.

with low levels of public support, prevented President Clinton from acting on his campaign pledge during the early months of his administration.

Clinton's attachment to the issue placed him in the unique position of being the first presidential candidate, and later President, to tackle an explicitly gay issue. By bringing this issue on board in his campaign, Clinton was also the first candidate to explicitly court the gay community as an electoral bloc. Assessing the strength and size of the gay electorate is particularly difficult given the closed and sometimes secretive nature of the community. Many gay men and women do not openly admit their sexual orientation in surveys and polls, and consequently the number of gay voters in the electorate is difficult to estimate. The political system itself adds further uncertainty to the electoral power of the gay community. The Electoral College system increases the power of the gay community by concentrating the vote within certain electorally powerful states, for example, New York and California. One estimate following the election suggests that one in seven of Clinton's voters were gay.<sup>148</sup>

The uncertain nature of their electoral power was not, however, matched by a financial uncertainty. The gay community provided significant financial support in response to Clinton's campaign initiative. It is estimated that one gay rights organisation, the Human Rights Campaign Fund, raised \$2.5 million for the Clinton presidential campaign. In total, the gay community is thought to have contributed as much as \$4 million which suggests that gay organisations were significant financial contributors to the 1992 Clinton presidential campaign. With fewer dependants, it is argued that the gay community has more disposable

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<sup>148</sup> Drew, *op. cit.*, p. 43

income than their 'straight' contemporaries do and are, therefore, an important and previously neglected source of campaign finance. Many of these funds had previously been directed towards AIDS charities and civil rights organisations and the significant campaign donations suggested that a great deal of faith was placed in candidate Clinton. Expectations for change were high both during and after the campaign.

As much as Bill Clinton was breaking new political ground with his courting of the gay community, ending the ban on homosexuals serving in the military did not become a central theme in the 1992 campaign. The economy remained the major concern of the electorate. The Republican convention attracted harsh publicity because of its anti-gay and extreme family values rhetoric, and subsequently inhibited Republican attacks on gay civil rights during the campaign proper. The Congressional Quarterly noted that this lack of opposition to Clinton's proposal gave gay rights groups even more hope for the future and the belief that this could be the first of the many achievements in their quest for equality.<sup>149</sup>

The issue of gays in the military was not just promoted by the Clinton presidential campaign. A number of high profile legal cases involving dismissed military personnel ensured that the issue had legal as well as electoral dimensions. The case, which reopened the debate after the election, was that of Petty Officer Keith Meinhold. In a ruling announced in Los Angeles on November 9, 1992 a federal district court judge found that the US Navy was acting unconstitutionally when it dismissed Meinhold following his declaration of homosexuality on

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<sup>149</sup> Fessler, Pamela. "Evolution of an Explosive Issue" CQWR 30/1/93. p. 227

television. In ordering Meinhold's reinstatement, the court noted that the "Department of Defense's policy of barring gays and lesbians based merely on status, and not on conduct, violated the equal protection clause".<sup>150</sup> The Navy unsuccessfully appealed against the ruling in January 1993 and the subsequent publicity prompted Clinton to reconfirm his commitment to ending the ban during the transition.

In his first major address as President-elect, on Veteran's Day<sup>151</sup>, Bill Clinton made it clear that he had every intention of working towards lifting the ban after his inauguration.<sup>152</sup> While the issue had not been the focus of the election, it became an early focus of the President-elect's attention, distracting the transition team, media and the public from the main election priority, the economy. During the transition, Clinton placed the issue in the hands of Rep. Barney Frank (D-Mass) and Secretary of Defense designate, Les Aspin. Representative Frank was an ideal candidate to work with the administration, Congress and the gay community because he had been openly gay since 1987. Les Aspin, with his experience within the defence community, provided the administration with links to the Joint Chiefs of Staff and the Pentagon. The combination of these two individuals potentially provided equal representation to both sides in the gay-military debate.

Shortly after the inauguration, a leaked White House memo revealed that Les Aspin had serious doubts about congressional support and military acceptance

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<sup>150</sup> *Meinhold v. Department of Defense* 808 F Supp 1455 61 USLW 2485 (1993). Quoted in Jones and Koshes "Homosexuality and the Military." American Journal of Psychiatry. Vol 152, No. 1 (1995) p.20

<sup>151</sup> 11 November 1992

<sup>152</sup> Schmitt, Eric. "The Transition: News Analysis - Challenging the Military; In promising to End Ban on Homosexuals, Clinton is Confronting a Wall of Tradition". New York Times. 12/11/92 p.A1

of the ban. This revitalised media interest in the issue and the leak prepared the way for groups to mobilise and lobby for their position. At first, many gay rights groups believed that President Clinton would use the full extent of his executive powers to rescind the ban. However, the tone of the debate, which had become part of the public domain for the first time, became so negative that such sweeping changes were no longer an option for the new administration and a more incremental approach was necessary. A compromise would have to be reached between the administration, the military and Congress.

### **The Announcement**

Les Aspin announced the administration's policy on January 25. It involved a two step process: initially, all actions against homosexual service personnel would be suspended, any discovered homosexuals would be put on standby reserve and new recruits would no longer be asked their sexual orientation. Then, in six months the President would announce an Executive Order formally ending the ban. This announcement ignited the debate in Congress over the shape of the new policy. The congressional response to the administration's announcement underlined the fragility of the Democratic coalition and the depth of opposition faced by the President.

Congressional and military leaders galvanised opposition against the administration's intentions to repeal the ban. In Congress, opposition was led by Senate Armed Services Committee Chairman, Sam Nunn (D-Ga). Conservatives of both parties and the Joint Chiefs of Staff were united in their resistance to the

new administration's proposal. Colin Powell continued to assert that "the presence of homosexuals within the armed forces would be prejudicial to good order and discipline."<sup>153</sup> In response to Clinton's initiative, the Senate threatened legislative action which would not only slow down the ending of the ban, but would also threaten other legislative initiatives important to the new administration.<sup>154</sup> By putting forward a legislative amendment that would seal the military ban into law, congressional Republicans hoped to stop Clinton in his tracks.

Sam Nunn became a power broker in the negotiations between all parties, as a Senator, defence specialist and Southern Democrat. This became as much of a battle for his own political turf as it was for the maintenance of the military status quo. Nunn and Aspin, as defence specialists, were in direct conflict for pre-eminence in their field. Nunn's pivotal role in the negotiation of a compromise between the administration and the military allowed him to secure considerable political power vis a vis Aspin and the Clinton administration.

The compromise which the Clinton administration negotiated with Democratic Senators, led by Sam Nunn, ensured that conservative Democrats would not block Clinton's plan to suspend the ban, but Clinton had to limit the extent of proposed changes to the status of homosexuals in the military. Although negotiations still had to take place between Aspin and senior military officials, the congressional compromise provided Clinton with a six month period during which he could hammer out the essential details with the Pentagon.

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<sup>153</sup> Drew, *op. cit.*, p.43

<sup>154</sup> The threatened amendment was to be attached to the Family and Medical Leave Act, a popular piece of legislation with the Clinton White House and Congress. The Republicans' ultimatum tested Clinton's attachment to a perceived minority issue in the face of legislative failure.

President Clinton announced:

“I have asked Secretary of Defense to submit by July 15 a draft Executive Order after full consultation with military and congressional leaders and concerned individuals outside of government, which would end the present policy of exclusion from military service solely on the basis of sexual orientation and at the same time establishing rigorous standards regarding sexual conduct to be applied to all military personnel.”<sup>155</sup>

This two step process was an effort to diffuse the highly charged atmosphere which surrounded the issue. It gave Congress the opportunity to discuss the available options for a more acceptable policy and put gay rights activists one step closer to their ultimate goal of integration.<sup>156</sup> President Clinton said of the compromise:

“We...all agree that a very high standard of conduct can and must be applied. So the single area of disagreement is this: Should someone be able to serve their country in uniform if they say they are homosexual but they do nothing which violates the code of conduct, undermines unit cohesion or morale apart from that statement.”<sup>157</sup>

Additional opposition to the Clinton initiative derived from the campaign scandal of his dodging the draft for the Vietnam war. Many Presidents have distinguished themselves on the field of battle, Theodore Roosevelt, Eisenhower, Kennedy, and Bush, all had distinguished war records. Heroism is part and parcel of the American electorate's expectations for their Presidents. Having evaded military service, Clinton was placed in a precarious position with the military and those involved in the area of defence. Perceived as, at best, inexperienced, it was

<sup>155</sup> Press Conference by the President. [[Http://www.pub.whitehouse.gov](http://www.pub.whitehouse.gov)] 29/1/93

<sup>156</sup> Towell, Pat. “Campaign Promise, Social Debate Collide on Military Battle Field.” CQWR, 30/1/93. pp. 226 & 228

<sup>157</sup> Press Conference by the President. [<http://www.pub.whitehouse.gov>] 29/1/93



difficult for him to command the military authority of his office. Public perceptions of his presidency declined during the first two weeks of the administration while the debate over gays in the military raged. Perceptions that President Clinton's decisions had been ill judged and out of touch with popular and institutional sentiment were supported by a 20% drop in Clinton's favourability ratings.<sup>158</sup>

### **The Congressional Debate**

During the six-month interim period, congressional debate continued. Senate minority leader, Bob Dole, renewed Republican attempts to tie up the issue of gays in the military in legislative red tape. An amendment, which would require the President to seek congressional approval before issuing an Executive Order lifting the ban, was put before the Senate. A Democrat backed alternative proposal gave Senators the opportunity to uphold officially the compromise reached between the President and leading Democrats announced on January 25. Additionally, a non-binding resolution was proposed that would allow the President and Congress to investigate current policy towards gays in the military. The Senate's wholehearted endorsement of the proposal and the resolution hid divisions within the Democratic Party. The united stand was promoted to support the Family Leave bill (S5) that had provided the forum for the initial Dole amendment rather than an endorsement of the campaign commitment, the Clinton administration policy or the compromise.<sup>159</sup> These events paved the way for

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<sup>158</sup> Drew, op. cit., p.48

<sup>159</sup> Doherty, Carroll J. & Pat Towell. "Fireworks Over Ban in Gays Temporarily Snuffed Out." CQWR 6/2/93 p.272

congressional committee hearings throughout the spring of 1993.

Senate Armed Services committee hearings underlined the general opposition of many congressmen and military leaders to a substantial change in military policy on homosexual service personnel. Reforms which went further than those embodied in the interim agreement began to look unlikely and President Clinton had to accept that he would be unable to lift the ban completely as he had promised during the campaign. Again Senator Nunn offered a compromise. Labelled 'Don't Ask/Don't Tell', the policy represented a very minimalist reform of the existing regulation and little change from the interim policy in place since January. Much of the impetus behind this compromise can be seen to come from the testimony of several senior military servicemen. Without exception, they agreed that open homosexuality within the military would be prejudicial to its good order and discipline. Retired Army General H. Norman Schwarzkopf said at the May 10 committee hearing:

"The introduction of an open homosexual into a small unit immediately polarizes that unity and destroys the very bonding that is so important for [its] survival in time of war."<sup>160</sup>

Additional testimony from gay servicemen and supporters of lifting the ban asserted that service with honour was possible for homosexuals and that their presence did not jeopardise morale or discipline. The testimonies from junior officers and enlisted servicemen were not as persuasive as that of General Schwarzkopf. Committee members still contended that any major changes to the existing policy would be extremely difficult to achieve and that there would have

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<sup>160</sup> Quoted in Fessler, Pamela "Nunn Offers a Compromise: 'Don't Ask/Don't Tell'" CQWR 15/5/97 p.1242

to be limits to the openness of homosexuals in service.

### **The Substance of the Executive Order**

The shape of the final Executive Order was such that it fulfilled few of the promises that Bill Clinton first made to gay leaders in October 1991. Announced on 19 July, and known as 'Don't Ask/Don't Tell' the Executive Order promised homosexuals access to military service so long as they never revealed their sexual orientation. The military for its side of the contract, would remove from enlistment papers questions about sexual orientation and would no longer seek out homosexual personnel without credible information that they had or intended to engage in homosexual behaviour. President Clinton announced the policy at the National Defense University at Fort McNair:

"I have ordered Secretary Aspin to issue a directive consisting of these essential elements: One, service men and women will be judged, based on their conduct, not their sexual orientation. Two, therefore the practice, now six months old, of not asking about sexual orientation in the enlistment procedure will continue. Three, an open statement by a service member that he or she is homosexual will recreate a rebuttable presumption that he or she intends to engage in prohibited conduct, but the service member will be given an opportunity to refute that presumption - in other words, to demonstrate that he or she intends to live by the rules of conduct that apply to military service.

And four, all provisions of the Uniform Code of Military Justice will be enforced in an even-handed manner as regards both heterosexuals and homosexuals. And thanks to policy provisions agreed to by the Joint Chiefs, there will be decent regard to the legitimate privacy and associational rights of all service members."<sup>161</sup>

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<sup>161</sup> Remarks by President at Defense University 19/7/93. [<http://www.pub.whitehouse.gov>]

The Executive Order announced by President Clinton outraged the gay community. Its limited nature was seen as a “capitulation to the Pentagon and Congressional conservatives.”<sup>162</sup> In an attempt to explain the final shape of the policy President Clinton said:

“Those who want the ban to be lifted completely on both status and conduct must understand that such action would have faced certain and decisive reversal by the Congress and the cause for which many have fought for years would be delayed, probably for years.”<sup>163</sup>

For many gay rights groups, it was not the scope of the reform which was troublesome, but the fact that, with so little achieved in this case, the prospects for further reforms were becoming more distant. Additionally, the sense of betrayal was deep given candidate Clinton’s unconditional pledge to end the ban during his presidential campaign.<sup>164</sup>

### **Loosening Abortion Restrictions**

The case of reauthorizing federal funding for services dealing with abortion was dramatically different. Since the Supreme Court decision in *Roe v.*

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<sup>162</sup> The Times 20/7/93

<sup>163</sup> Remarks by President at Defense University. [<http://www.pub.whitehouse.gov>] 19/7/93

<sup>164</sup> The ‘Don’t Ask/Don’t Tell’ policy has not protected all gay service personnel. Timothy R. McVeigh, a Navy sailor, was discharged from the Navy in November 1997 for using the word gay on his Internet provider user profile. He was careful not to provide details of his occupation or full identity so as not to violate the current policy. A Navy investigator obtained full personal details from the internet provider (AOL) with a single telephone call and no court order or subpoena. Two issues at stake here are whether both the Navy and AOL have violated privacy laws and if McVeigh has stepped outside the protection of the ‘Don’t Ask/Don’t Tell’ policy. The Navy contends that McVeigh has violated the existing policy with his declaration that he is gay. Gay rights workers advocate that under the ‘Don’t Ask/Don’t Tell’ policy, the Navy have no reason to pursue McVeigh as he did not reveal his full identity or occupation. For full details see “Navy Targets Sailor’s Use of ‘Gay’ on AOL Case Raises Issue of Online Privacy Protection” Washington Post 12 November 1998, A07 (<http://www.washingtonpost.com/>)

Wade (1973) abortion has played a crucial role in shaping the nature of the American political scene. In every election since 1974 abortion has become a critical issue dividing supporters and politicians of both political parties. Not until the Republican administrations of the 1980s and early 1990s was there a single presidential political message about abortion. Ronald Reagan's anti-abortion rhetoric cemented the fate of abortion rights campaigners for more than a decade. Reagan's actions changed the nature of the national debate in several ways. He gave presidential legitimacy to the anti-abortion movement; he aggressively sought constitutional and legislative solutions to the Roe decision; federal judicial appointees were screened for their opinions on the abortion issue, removing abortion rights supporters from consideration; regulations were enacted by the administration which would restrict the availability of abortions.<sup>165</sup>

These actions varied in their success as Congress exercised its own powers to moderate presidential activity. Success was achieved in the areas where the presidency had the most scope of action, appointments and regulations. Unable to pass a constitutional amendment to overturn Roe, Reagan settled for reinterpreting funding regulations for the Department of Health and Human Services in 1985. The new regulations effectively removed funding under Title X of the Public Health Services Act (1970) for organisations that performed or provided counselling for abortion.<sup>166</sup> While unable to undermine the constitutional right of women to have abortions, the Republican administration aggressively sought to remove the availability of abortion through federal regulations.

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<sup>165</sup> Craig, Barbara Hinkson & David M. O'Brien: Abortion and American Politics. p.169

<sup>166</sup> Ibid p.188

President Bush continued the work of the Reagan administration throughout his own presidency. Again, unable to persuade Congress to work towards a constitutional amendment, he maintained the federal regulations limiting the availability of abortion. Additionally, he extended the regulations to cover research conducted by federal scientists on foetal tissue transplants. Congress continued to pass legislation to limit the extent of these regulations, and Bush continued to use his veto. For over a decade, abortion rights activists saw their campaign thwarted by presidential actions.

The 1992 presidential election campaign saw the Democrats and the Republicans draw their traditional battle grounds on the abortion debate. The Republicans continued to affirm that the rights of the unborn child were of paramount importance, while the Democrats stood behind the rights of women to determine their own actions with regard to every area of reproduction. With the economy foremost in the minds of the voters, abortion was less decisive as an issue than had been the case in previous years. This did not, however, prevent Clinton from making the reversal of federal regulations limiting access to abortion one of his administration's early priorities.

Just two days after his inauguration, Bill Clinton signed three memoranda reversing the regulations imposed by the Reagan and Bush administrations. The Secretary of Defense was ordered to reverse the ban on privately funded abortions in Military Hospitals which had been established by memoranda on December, 1987 and June, 1988. In February 1988 Title X funds were withdrawn from clinics providing abortion services; this became known as the 'Gag Rule'. Clinton's memoranda suspended the 'Gag Rule' until new regulations associated

with the Public Health Services Act could be drafted. The version of the ban that affected the use of foreign aid by organisations providing family planning services was also removed. Finally Clinton removed the moratorium on foetal tissue research conducted by the National Institute of Health and instructed the Food and Drug Administration to investigate the necessity of banning the importation for personal use of the controversial abortion pill Mifepristone (RU-486). Of the package of memoranda, Clinton said:

“Today...marks the beginning of a new national reproductive health policy that aims to prevent unintended pregnancies. Our administration is committed to providing the kind of prenatal care, child care and family and medical leave that will lead to healthy childbearing, and will support America’s families”.<sup>167</sup>

While not strictly designated Executive Orders, as they were unnumbered and entitled memoranda in the presidential announcement, their publication in the Federal Register provided them with equal status. Clinton’s use of memoranda in these cases was in direct response to presidential precedent, rather than just expedient policymaking. While his actions legalised or reauthorised many activities related to abortion, it was still essential for Congress to initiate and approve appropriation bills for many of these regulations to be enforced or acted upon. There was a strong probability that such approval would be forthcoming given the historical climate of congressional activities during the previous Republican administrations. By using the full extent of his executive powers in this case he was able to promote perceptions of decisiveness and dynamism.

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<sup>167</sup> Remarks by President during signing of Presidential memoranda 22/1/97. [<http://www.pub.whitehouse.gov>].

## **The Role of Precedent and the Use of Executive Orders**

In the two cases examined the use of executive power brought about dramatically different results by dramatically different means. In the case of repealing the ban on homosexuals serving in the military the new administration faced a hostile and unyielding opposition in Congress and the military elite. President Clinton's problems with the management and execution of the Executive Order stemmed from three factors that influenced the fate of the order.

Firstly, precedent has been incredibly important to the historical development of the scope of Executive Orders. In the case of homosexual integration into the military, the precedent came from the desegregation and integration of African-Americans and women. However, as previously explained, these are not direct comparisons as no military law prescribed their segregation. For homosexuals, desegregation and integration would require a change in the Uniform Code of Military Justice, which could only be brought about through congressional consent. Therefore, just as congressional approval is needed for a financial appropriation, the President was not able to act independently and make full use of his executive powers.

Secondly, many of the obstacles that the administration had to confront with this issue were brought about by the scope of the proposed Executive Order. As an electoral and social issue, gay civil rights were low on the list of priorities for the vast majority of congressmen. Regarded by many as a distraction from the main policy priority of the economy and too far reaching to be popular with the



majority of the electorate, it was difficult for them to support the presidential initiative. Moreover, the lack of consultation between the President and Congress alienated many leading Senators.

The final, and equally influential factor in shaping the outcome of the order was President Clinton's lack of regard for the opinions of military leaders. While his constitutionally mandated power of Commander in Chief of the Armed Forces gives him the authority to order the integration of homosexual men and women into the military, it does not empower him to change the opinions of the officers who would be enforcing the order. Lack of consultation with military leaders in the early stages of the debate over status and conduct was a serious oversight and indicated a lack of respect for the wishes of the military. It seriously eroded any legitimacy that the President had with such leaders who knew that, without their support, President Clinton would never be able to achieve his goal of integration. If the Clinton team had consulted with military leaders before reconfirming their campaign pledge they would have been prepared for the levels of opposition which they encountered. Ultimately, it seems likely that they would have continued with the pledge, but in a more informed environment than that in which the policy was finally shaped.

It is clear that Clinton did not appreciate the seriousness of the issue he was tackling and the ramifications it could have for the rest of his legislative programme. Because the issue received very little publicity during the campaign it was impossible for the President to gauge public and institutional opinion, both essential to the success of any reform initiative. Even more importantly, a lack of understanding of the Executive Order process meant that Clinton was unable to

use this presidential tool effectively. He appears to have been unaware in the initial stages of the process of the need for military consultation and congressional consent. All of this is underpinned with evidence of post election hubris, an affliction that has caused many newly elected Presidents considerable problems and embarrassments.

In the case of gays in the military, the use of an Executive Order to enforce integration was always going to be a contentious issue. Without sufficient outside support, presidential prestige and institutional legitimacy, the proposal had little chance of success. Additionally, the necessary involvement of Congress in the enforcement process limited the President's scope of action and severely limited the extent of his executive powers.

The use of executive powers in the case of lifting the restrictions on abortion practices was far more successful. By using the powers of office appropriately, and in line with precedent, the new administration was able to undo the actions of previous administration with the draft of three simple documents. The issue at hand was no less highly charged with opinion than homosexuals in the military, it was simply that the President matched the actions of previous office holders in dealing with the issue. Without any constitutional mandate, the limits on the use of executive powers are tightly bound to history. Any attempt to extend those limits, without recourse to crisis, is liable to face obstruction from the other branches of government seeking to maintain their own constitutional positions.

## Conclusion

It would be inaccurate to suggest that President Clinton made consistent or extensive use of Executive Orders to work outside the traditional legislative arena or that his Executive Orders were exceptional. As a governing strategy, he used Executive Orders within what he believed was their historical context, with a strong sense of history and precedent. The publicity, which surrounded the issues of gays in the military and abortion, was by virtue of the nature of the issues rather than the use of Executive Orders to achieve the policy ends. In the first six months of the Clinton administration he issued 22 Executive Orders. The majority of which (15) were concerned with the management of the executive branch and the federal bureaucracy. In order to put this in perspective it can be compared with Ronald Reagan's use of Executive Orders in the first six months in office. He issued 28 Executive Orders, again with the majority focused upon the bureaucracy. President Bush made less use of Executive Orders issuing only sixteen.<sup>168</sup> The case of President Bush appears to indicate that newly elected Presidents facing inter-party transitions need to make greater use of the Executive Order to stamp their mark upon the executive branch. Through such Orders, Presidents give indications to Congress and the bureaucracy about their future legislative strategy, adapt the federal bureaucracy to their personal and policy needs; and seek to fulfil campaign pledges without tackling the legislative obstacle course.

Executive Orders can be effective and useful policy tools, but new

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<sup>168</sup> National Archives and Records Administration.  
[<http://www.nara.gov/nara/fedreg/eo/eo.html>]

Presidents seeking to place their mark on government should err on the side of caution. An understanding of their limits is essential, they should not be viewed as a cure all, prescribed at will, for problems and issues which do not lend themselves to the traditional legislative process. The case of the abortion memoranda demonstrates that it is relatively simple to undo the actions of old administrations through the appropriate, precedented use of executive powers. However, the experience of President Clinton in the case of homosexuals in the military should caution future office holders in their zeal to deliver on impossible campaign promises.

## **Chapter 7: Establishing Transition Linkages**

The previous five chapters have analysed the endeavours of the new Clinton administration to secure success in both the appointments process and the development of policy options. What is most evident is that such success in presidential transitions is elusive, even under the most ideal circumstances. The transfer of power from one administration to another is highly unpredictable and prey to numerous pressures both within the executive branch and in the wider Washington community. The policy outcomes achieved in the five issue areas discussed are significant as a means to judge presidential accomplishment during the transition period, but the outcomes are only one small part in that judgement exercise. More illuminating in the pursuit of greater understanding of the conduct of this presidential transition is the way in which the whole transition machine is linked together.

It is the linkages between the White House, the Executive Office of the President and the legislative agenda that reveal the full truth about the transition and its place in the presidential history of Bill Clinton. The Clinton transition of 1992-93 can be seen to have had a strong influence over the conduct of his first term in office, and most particularly the period of time up to the 1994 mid-term elections. In order to assess the extent to which this transition was successful in its aims it is, therefore, appropriate to identify trends across issue areas relative to both appointments and policy selection and formulation, to reveal the genuine nature of the Clinton transition. These trends will be identified through Brauer's four factors essential for success in presidential transition and these elements will be used as a framework to assess the extent to which Bill Clinton's transition can be assessed in terms of Brauer's paradigm.

## **Effective Planning**

Since the Kennedy Transition in 1960-61 much has been made of the necessity to plan early for the transition. In 1992 Bill Clinton followed the example of his predecessors with the establishment of the Pre-Transition Advisory Board. There can be no doubt that the formation of this group during the nomination contest was a deliberate attempt by the presidential candidate to lay the foundations for his transition, should he be successful in the November election. Despite accusations of haste and hubris, both previous Presidents and academics alike maintain that it is an essential step towards preparing for office. However, the effectiveness of this planning organisation was reduced by the scope of its remit. Having responsibility for political appointments, policy direction and an evaluation of the larger picture of the condition of government was a tall order for a small team, one member of which had additional responsibilities within the campaign team.

A second problem associated with the pre-transition planning organisation was that it would not be the only source of information for the President-elect. Through their membership of the DLC, both Clinton and Gore had encountered many like minded individuals. Members of the DLC were to become closely associated with the campaign and later the transition. Furthermore, the DLC's own think tank, the Progressive Policy Institute (PPI), became an additional voice in the area of policy formulation. It was involved in preparing policy options, in membership of policy working groups and ultimately in the publication of its own

book,<sup>169</sup> which became associated with the administration. Such competition for ideas is important in developing innovative policy, but it can also undermine the hard work embarked upon during the middle stages of a presidential campaign.

By comparison, the highly focused remit, covert activity and cohesion, which was associated with the Reagan transition planning team, ensured that there would be no dilution of the Reagan message through outside actors. Moreover, the transition itself was directed from the structures established during the planning stages. For Reagan, the key to this aspect of transition success was the concrete foundation laid by E. Pendleton James and his staff in Arlington.

The location of the pre-transition planning organisation also appears to be an important determinant in its success. Both Carter and Clinton established their pre-transition planning teams in their home states. These teams were divorced from the political processes at work in Washington, whereas Reagan's team was in an ideal position to take advantage of the proximity of the city, to begin to establish contacts within Washington and to establish a rapport with important actors within the wider Washington community. For Clinton, as a Washington outsider, the development of these types of relationships would have been a boost in the evolution of his own administration during the transition.

There are other striking similarities between the Clinton and Carter transitions. Both established pre-transition planning groups outside their campaign organisations, both appeared unaware of the pitfalls that might result from such a disjunction and both experienced conflicts between their two sets of staffs following the November election. In recognising that the tasks of

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<sup>169</sup> Marshall & Scram, Mandate For Change



campaigning and governing are very distinct, the rationale behind separating these tasks during the election was sound. However, the difficulty lay in communicating that reality to a campaign staff exhausted from months of travelling, rallying and speech writing, who were desperate for the spoils of such hard work. To exemplify this point, despite the division of tasks and the subsequent antagonism between the two groups, only two of the senior members of the pre-transition planning group and the campaign staff did not take up permanent positions within the new Clinton administration. Clinton may have recognised the difference between campaigning and governing, but he did not follow through when filling the appointments in the executive branch.

The majority of the attention of pre-transition planning groups appears to be focused on personnel selection, and rightly so as it is a task which requires prompt action from the President-elect following the November election. There are high expectations from political commentators and observers that the public face of the new administration will be available for scrutiny in the early weeks of the transition. Additionally, because of the huge volume of positions to be filled, it is the most time consuming activity of the transition. The process can become more costly in terms of time and manpower if the President-elect is intent on maintaining a tight hold over the whole appointments process, rather than just concentrating on the higher level cabinet nominations, or if there are a diverse set of appointment criteria placed upon potential candidates. This focus on appointments, however, does not leave much scope for policy development, if that is one of the remits of the pre-transition planning team. There is little evidence to suggest that the Clinton pre-transition planning team were able to

tackle fully this aspect of their responsibilities. It was not until after the election that working groups would be designated to consider policy options in the major policy areas consistent with campaign promises.

### **Transition Success Factor One: Plan Early for the Transition.**

The process of pre-transition planning for Clinton, therefore, was in place, but not exploited to its fullest capacity. If the transition can be thought of as a barometer for future administration activities, then these pre-transition planning organisations are equally illuminating about the future practices of the transition. Pre-transition planning might not be the most important of Brauer's four factors to get right, but a strong start can do nothing but aid the transition once it is in full swing after the election. Presidential candidates who are serious about embarking upon such planning should consider the main objective of the planning process. Focus and coherence in terms of aim and method are essential. It is also essential that the work of the pre-transition planning organisation be fully utilised during the early transition period. In James Pfiffner's terms, this is the ability of the administration to 'hit the ground running'.<sup>170</sup> The time scale for the interregnum is too brief, and open to too many additional pressures to embark upon a replication of the background research undertaken during the previous summer.

### **Taking Control of the Appointments Process.**

Upon coming to office, Clinton faced a governmental situation which

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<sup>170</sup> Pfiffner, *op. cit.*, p. 7

would have been unfamiliar to any of his predecessors. The longevity of the Republican Party's dominance in the presidency and the indifferent appraisal of the Carter administration, bequeathed Clinton with a difficult task: the rejuvenation of the Democratic Party's presence in federal government and uniting the Party across the institutions after an extended period of divided government. In order to achieve both these aims the appointment of talented and experienced men and women would be essential. The new administration's own goal of diversity and strict criteria of ethnicity, gender and geography, were instrumental in delaying the speed of appointments. This, in combination with the very loose transition structure associated with selecting possible candidates for nomination, further exacerbated the Clinton transition's problem of perceived inefficiency.

In the case of the Clinton transition, the groundwork provided by the Pre-Transition Advisory Board was not so much replicated as convoluted following the election. By placing the responsibility for personnel selection with a vast network of volunteers, close personal friends of the Clintons and Bill and Hillary Clinton themselves, the process became highly decentralised. Additionally, those charged with the management of personnel tasks, for example, the former governor of South Carolina, Richard Riley, had little familiarity with the appointments process or the nature of the positions that he was filling.<sup>171</sup> There is little doubt that Riley was a close and loyal friend of Bill Clinton, but he did not have the expertise to manage aides who themselves had little experience of the Washington culture and the political appointments process. More useful in this

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<sup>171</sup> Mackenzie & Shogan. Obstacle Course p.69

scenario would have been a Washington insider with a less personal relationship to the President-elect, who could provide sound advice and direction to the central task of the transition.

The position of Richard Riley in the appointments process was indicative of the way in which the whole transition was managed. Problems with organisation and structure, which were evident during the campaign, spilled over into the transition with the aforementioned clash between campaign and transition teams. Despite the strategic appointment of two transition heads - Christopher and Jordan - this attempt at structure and organisation did not overcome the personal impulses of Bill Clinton to maintain a free flowing and non-hierarchical managerial style. From the very beginning, the transition lacked a central focus or direction and the only point of cohesion was the President-elect.

The multiple sites used to manage the policy and appointments process further exacerbated this lack of focus and direction during the transition. Part of the transition was housed in Washington D.C., in an office block near to the White House, part was based in a skyscraper in Little Rock, and the big decisions were taken in the study of the Governor's Mansion in Little Rock with the President-elect, Vice President-elect, Hillary Clinton and a small group of their intimates.<sup>172</sup>

The Clinton transition also introduced a new dimension to preparing for the White House. In combination, the Clinton - Gore ticket brought together two professional politicians who believed that they were going to change the face of politics in the US. Unlike the pairings of Carter - Mondale, Reagan - Bush and

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<sup>172</sup> Friedman, Thomas L. "The Transition: The New Team; Clinton's Aides Search for Options and Offices." New York Times. 16/11/92 p. A 14

Bush - Quayle, where Vice - Presidents, possessed to varying degrees, some political independence, Clinton - Gore promised to be more of a partnership. The Vice - President would pursue his own interests and use his office to promote his own agenda in addition to supporting the President. This elevation of the vice-presidency necessitated that the Clinton transition accommodated more than one centre of power. Al Gore's personal policy interests in the environment and technology were destined to be administration priorities and his expertise and influence became evident in the appointment of his former senior senatorial aide and Secretary of Environmental Regulation in Florida, Carol Browner, to head the Environmental Protection Agency and the elevation of that agency to cabinet status during Clinton's first term.

A further test of the ability of the transition to adapt the presidency to a new type of political leadership was preparing for an activist First Lady. Following in the footsteps of Eleanor Roosevelt and Rosalynn Carter, Hillary Clinton was seeking to advance the role of the First Lady beyond the boundaries established by her predecessors. Commonly recognised as the driving force behind the political ambitions of Bill Clinton, her presence in the White House would revolutionise the character of the office. Therefore, the existence of three power centres in the White House would require a delicate balance between the institutional imperatives of the presidency and the desires of the inhabitants of the White House.

In addition to reshaping the relationship within the White House, Bill Clinton intended his administration to be distinct from those of past office holders. Ultimately, this distinction would be more one of degree than kind. There is no

disputing that Clinton assembled, in terms of ethnicity, gender and geography, the most diverse cabinet in presidential history, but this diversity was not so evident in the high profile cabinet departments charged with the management of economic and foreign policy. Having designated economic policy as one of his own priorities, the appointment of seasoned professionals from both inside and outside the Beltway to senior positions within both the EOP and White House Offices was inevitable. From the beginning, these appointees would have to work with the economic and political establishment, reassure the financial markets of Clinton's economic intentions and firmly establish the administration's legislative direction early within the budget cycle - which would be well underway by inauguration day. The appointment of Bentsen, Panetta, Altman and Rivlin captured the political centre ground allowing them to be advocates for good policy rather than ideology. Additionally, the 'insider' status of Bentsen, Panetta and Rivlin increased important legislative connections between the executive branch and Congress.

Similarly, in terms of foreign policy staff, the need to appoint a team acceptable to the defence community was essential. Great uncertainty, brought about by the end of the Cold War, further pressurised Bill Clinton to appoint advisors and cabinet secretaries with considerable knowledge and experience. Foreign policy decisions provide all newly elected Presidents with their greatest leadership test. No previous occupation adequately prepares any successful presidential candidate for the management of foreign affairs and it is the area of policy which accords the office holder the greatest amount of constitutional scope, but also encompasses the most hazardous pitfalls. Regardless of the

reassertion of congressional war making powers following the Vietnam War, the president maintains a pre-eminent position in the foreign policy field. Beyond the realm of the defence specialists and into the international community, the nature of Clinton's appointments would send signals to the United States' allies and opponents alike. It was for these reasons that experienced administrators, whose appointments were not affected by the EGG criteria, filled senior positions in the Department of Defense and State Department.

The sharp distinction between economic and defence appointments resulted in the general impression that the individuals in place in those departments would be expert administrators rather than policy innovators. In the case of economic policy, this opinion was punctuated by President-elect Clinton's statement that "I will be the chief economic advisor in my Administration and I would take responsibility for addressing both the short and long-term economic challenges facing us."<sup>173</sup>

### **Setting Appointment Priorities: Organising the White House.**

As the most time consuming and public activity of the transition, the filling of executive branch appointments became a priority for the Clinton transition. However, the appointment of the President's personal White House staff is recognised as being of the greatest priority in the early days of the transition. Presidents, from Kennedy onwards, have been urged to select their White House staff early, and to publicise the appointments to provide a focus for potential

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<sup>173</sup> Rosenbaum, David E. "Dec. 6-12; Insiders, Outsiders." New York Times. 13/12/92 Sect. 4 p. 2

“office-seekers, idea-peddlers, pressmen, legislators, diplomats and cabinet designees.”<sup>174</sup> From both an academic and political perspective, the announcement of the White House staff marks an important watershed for the new administration. The timing and substance of these appointments provides a strong indication about the organisational nature of the new administration and the President-elect’s managerial and political intentions.

The organisation of the Clinton White House remained a mystery to commentators and observers for the first five weeks of the transition. His first cluster of appointments included his chief of staff and the Director of the Office of Management and Budget. Even with the announcement of Clinton’s choice for his chief of staff, little of the confusion that surrounded the organisation of the future Clinton White House was dispelled. Clinton’s decision to appoint Thomas McLarty did not alleviate impressions of disorganisation and inexperience. Moreover, by leaving the appointment of Howard Paster<sup>175</sup> to congressional liaison until the final week of the interregnum, he denied Congress a point of reference for their enquiries and problems.

A comparison of the appointments process in the Carter, Reagan and Clinton transitions reveals some striking similarities between the Democrats and further illustrates the dramatically different approach of the Reagan transition. In both political and academic terms, Reagan established a clear picture of the workings of his transition from the early weeks, and maintained a tight hold on his priorities by announcing his nominees within the space of two weeks. From the

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<sup>174</sup> Memorandum from Richard Neustadt to Kennedy transition. Quoted in Jones, Charles O. Passages to the President: From Campaigning to Governing. (1998) p 89

<sup>175</sup> Howard Paster came to the Clinton administration from the public relations and lobbying firm of Hill and Knowlton. He would return to the company as their president by the end of 1993.



start there had been a clear organisational and administrative structure which reflected the legislative priorities of the incoming administration. (see Figure 1, p.214)

### **Transition Success Factor Two: Organising the White House**

Between the election in November and the inauguration in January it remained unclear, to outside observers, whether a central organising principle of the Clinton transition existed. Just six days prior to the inauguration, Clinton announced the majority of his White House appointments. These appointments, while punctuated by the appointment of older and more experienced advisors - Carol Rasco (Domestic Policy Advisor) and Eli J. Segal (Office of National Service), generally represented the youthful 'thirtysomething' face of the Clinton Campaign.<sup>176</sup> If the early transition provides messages about the future of the administration, then the strongest message broadcast prior to the inauguration was not one of policy direction, but of the importance of assembling a diverse administration. Pursuing Brauer's advice about structuring the White House as early as possible may not have prevented the diversity issue from dominating the public face of the transition, but having staff in place to act as conduits for information may have lessened critiques of the transition appointments process as a whole, which appeared directionless. Following the inauguration, the prime objective of the administration would be to embark upon the legislative agenda, however, mistakes and miscalculations made during the early transition would

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<sup>176</sup> Berke, Richard L. "The New Presidency: President-Elect; Clinton Selects a Mostly Youthful Group of White House Aides." New York Times. 15/1/93 p. A 14

hamper their ability to focus attention upon the central policy themes.

### **Setting the Legislative Agenda**

Measures of presidential success are fixed on a number of factors; one criterion often used is legislative success, to what extent the President achieves his stated policy aims through Congress. Appraisals of the early months of the Clinton administration are generally uncomplimentary about his ability to set and promote his legislative agenda. As in during the interregnum, it appears that the message received by observers was not the one intended by the President. Ideological fuzziness and inconsistency overcame claims of policy focus and direction. In reality, however, was the Clinton agenda inconsistent and unfocused?

The uncertain nature of Clinton's aims and objectives during the early months of his administration can be attributed to a number of different factors. Firstly, he was seeking to undertake a series of domestic policy initiatives following a domestic policy climate that had seen twelve years of relative neglect. Secondly, estimates of the current situation of the government supplied by the outgoing administration were proven to be inaccurate. Thirdly, despite claims of a mandate from voters, the political reality was that Clinton had not gained a majority vote in the November election and was reliant upon holding together a diverse coalition to secure support of his proposals. These factors required that promises and pledges embarked upon during the campaign were tempered to reflect the political reality that the administration was facing.

A further important influence over the initial impressions of the Clinton

administration was the political climate which it shaped for itself. Focus, coherence and consistency are easy to maintain when the aims and objectives of the administration are limited to one or two issues. The narrow legislative agenda espoused by the Reagan administration in 1981-82 was relatively easy to achieve because tax cuts required little policy innovation or strong arm tactics to persuade legislators. An ambitious legislative agenda will require far more management and promotion, and this is the key to the Clinton legislative agenda in 1993.

There is a sense that the Clinton policy programme could have been far more expansive than its final scope. Promises made to a large number of constituencies had the potential to become a gargantuan legislative agenda that, in the end, would achieve few of its aims and please nobody. In selecting issues to which he had the greatest attachment Clinton attempted to make his policy programme more realistic.

### **Capturing the Right Political Limelight**

From the very initial stages of his presidency, it was essential that Bill Clinton captured the attention of the electorate, legislators, the press and political observers with his early announcements. These announcements should effectively reveal the governing intentions of the new administration both in specific and thematic form. On 4<sup>th</sup> November, 1992 Bill Clinton outlined his intentions for office. Initially focusing on a theme of continuity in foreign policy, he continued to stress the importance of “restoring...economic strength” and maintaining

economic stability.<sup>177</sup> In his inaugural address, Clinton espoused the themes of socio-economic investment and renewal.<sup>178</sup> Statements made in the days following the inauguration, however, did not follow these mainstream themes. The President strayed from his focus on popular economic and social issues to what were perceived by many to be minority issues, and the issue which gained the most public attention was that of lifting the ban on homosexuals serving in the military. From the outset, this issue was destined to polarise the public and politicians alike. In seeking to use the broadest scope of his executive powers, Clinton subjected the early weeks of his presidency to a barrage of unwanted media attention. It is obvious from the analysis of the events surrounding the issue that Clinton's concept of an Executive Order did not correspond with its actual political and legal role.

Moreover, he did not recognise the essential connections between the presidency and the other actors involved in repealing the ban. As President, he is able to utilise powers accumulated by precedent to issue Executive Orders, but the administrative reality in this case was that he would be reliant upon the consent of parties outside his sphere of influence to bring about the full force of the administrative tool. The ideal approach to securing this policy initiative would have involved early consultation with senior military officers and congressmen, consultation which should have taken place before any presidential announcement. However, for Bill Clinton, the most important factor was being seen to be acting upon a campaign promise early in his term of office.

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<sup>177</sup> "Transcript of Clinton's remarks on White House Transition." New York Times. 5/11/92 p. B2

<sup>178</sup> "President Clinton's Inaugural Speech." [<http://www.pub.whitehouse.gov>]

The process of policy development and negotiation took place in an adversarial atmosphere following the initial presidential announcement on January 25, 1993. Congress and the military were brought into the deliberative process after Clinton had decided upon his course of action. In the glare of media attention political and ethical positions on the issue were drawn and the full extent of the obstacles facing the President became evident. From his early actions it appeared that Clinton's loyalties lay with the gay community, who represented an important electoral constituency, and organised interests rather than with the military, his constitutionally mandated responsibility.

The managerial and political impulses of the new President deeply affected his approach to this issue. In combination, the desire to fulfil an important campaign promise, move quickly and decisively at the beginning of his term of office, and to use the full extent of his executive powers to solve policy problems, shaped his conduct in the use of the Executive Order. There was no recognition that this would be a divisive issue and no strategy prepared to cope with opposition from Congress and the military. The unity of these two influential groups forced the administration to back down from its initial promise, enter into lengthy negotiations, put in place an interim measure and ultimately compromise on the substance and style of the final Executive Order and accompanying legislation. To suggest that Executive Orders can only be used within their historical context would be to ignore their development of the previous 200 years. However, the extension of Executive Order authority has to be combined with a sense of urgency or crisis, and in the case of repealing the ban on homosexuals serving in the military, such a crisis did not exist.

Executive Orders, when used in the correct situations, should not require Presidents to bargain with competing groups to such a large extent. This is clearly demonstrated with the reauthorization of abortion practices in federal medical facilities. Presidents Reagan and Bush used these legislative tools to circumvent a Congress unwilling to pass anti-abortion legislation or consider a constitutional amendment to overrule the 1973 Roe decision. In signing the memoranda on January 22, 1993 Clinton simply reversed the actions taken under previous presidents. Appropriations required by Congress to fund medical facilities etc., were virtually assured given their consistent support of abortion rights throughout the previous Republican administrations. That abortion remains a highly contentious issue in American politics should not be ignored. Yet, in the case of this executive action, Clinton was assured of relatively high levels of public support and was able to deliver on a campaign promise within days of his inauguration without intense media scrutiny or political opposition.

Throughout the controversy surrounding the declaration of the Executive Order relating to homosexuals and the military, attention was naturally focused on Bill Clinton's actions. Unlike regular legislative action, where the responsibility for the final outcome rests with a number of different actors, with the exercise of executive powers responsibility rests squarely with the President and the White House. The flaw in the Clinton White House appears to be the lack of understanding of the legal mechanisms surrounding the use of Executive Orders, as a Washington outsider, Clinton should have sought the advice of experienced administrators in preparing the announcement of the Executive Order.

The experience of the new Clinton administration in relation to the

homosexuals in the military issue was, in terms of presidential transitions, exceptional. Most new administrations seek to spend their first few weeks setting the legislative agenda and publicising their future policy initiatives rather than defending a minority issue. Because of the saga with the Executive Orders President Clinton's ability to take control of the process of policy promotion in other issue areas was severely limited. The seriousness and far reaching implication of the major policy initiatives constantly battled with the trials and tribulations of the Executive Order for media attention. The early mistake of this minority issue was to have knock-on effects for both health care reform and economic policy.

### **Focusing the Limelight**

Management of the economy was, in many respects, going to be the biggest test of Clinton's political resolve. Reforming health care and bringing costs within the reach of millions of uninsured Americans would be a huge policy achievement, but long term economic management would be the yardstick by which President Clinton would be judged in the 1996 presidential election. To the extent that the economy had been the undoing of George Bush in 1992, it would also determine whether Bill Clinton would be another one term Democrat President.

The influence of the budget cycle over the yearly political and policy agenda in American politics is such that, until the budget is resolved, no other domestic policy initiative that requires an appropriation will be passed by

Congress. It is for this reason that President Clinton should have held himself to his pledge to 'focus on the economy like a laser beam'.

The Clinton administration's investment in the development of economic policy is clearly evident from the amount of time given over to its development during the interregnum and through the appointments made to key economic posts. By bringing to his administration a mixture of seasoned Washington experts and professional economists from the world of business and education, Clinton sent all the right signals to the economic community. Of some concern was the duality of opinion in terms of deficit reduction versus investment spending, however, there was a recognition that the economic team was going to be up to the task at hand.<sup>179</sup>

During the interregnum Clinton further demonstrated his commitment to developing economic policy that reflected the needs of the economy through the economic summit held in Little Rock. However, questions have been raised about the real intentions behind the December 15 meeting given that no representatives from either house of Congress were present. The budget proposal is the property of the new administration, however, they are reliant upon congressional support for its passage. Corporate representatives at the conference were won over by the President-elect's knowledge and understanding of the complexities of financial and economic policy, but remained unclear about the substance of Clinton's proposals to reduce the deficit and provide a boost to the economy through infrastructure investment.<sup>180</sup>

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<sup>179</sup> Fuerbrubger, Jonathan. "Credit Markets; Reports of Clinton Nominees Ease Fears of Bond Traders." *New York Times*. 8/12/92 p. D1

<sup>180</sup> Greenhouse, Steven. "The Transition: Executives' Early Reaction to Clinton: Not too Bad, For a Democrat." *New York Times*. 8/12/92 p. A27



Early Congressional neglect would give way to frenetic lobbying activity following the announcement of Clinton's economic plan. In recognition of the immense task ahead of them, the administration used every possible tactic to push through both the investment and the deficit reduction aspects of their programme. Following initial doubts and uncertainty about the White House's ability to work as an advocate for its policies, a strategy akin to President Johnson's personalised approach to working with legislators emerged as President Clinton sought out both Democrats and Republicans and campaigned for his policies. The aloof impressions of the interregnum gave way to an administration that was immersed in the day to day politics of persuasion, bargaining and courting.<sup>181</sup> Moreover, the internal management of the White House appeared more settled as the 'outsiders' found their feet. Initial assessments of Clinton's chief of staff were dismissed as McLarty proved himself to be a sound manager of ideas and people in an environment that often resisted such management.<sup>182</sup> In seeking to compare his role to that which existed under Presidents Nixon, Reagan and Bush is to ignore the simple fact that President Clinton's personal leadership style would not permit the presence of a gatekeeper or 'no' man.

The difficulties experienced in selling the stimulus plan were the result of an improving economy, which did not appear to need stimulating, 'investments' targeted at non jobs related programmes, and a strong impulse to emphasise deficit reduction as the long term policy vision. Embarking upon a short-term stimulus package would not, in the opinion of some economists, have a significant

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<sup>181</sup> Berke, Richard L. "Looking for Alliance, Clinton Courts Congress Nonstop." New York Times. 8/3/93 p. A1

<sup>182</sup> Fill, Gwen. "Washington at Work; Clinton Chief of Staff Lives Up to Name." New York Times. 19/3/93 p. A19

effect upon America's long term economic fortunes.<sup>183</sup> The economic indicators which showed the economy was taking an upturn in the late months of 1992 did not herald the end of the recession, but did raise questions about the necessity of a stimulus package over more traditional interest rate based mechanisms.

Clinton's Senate battle conclusively proved that legislators, while eager to provide the President with a legislative success, were not willing to endorse spending which deviated from the original theme of infrastructure investment and job creation. The loss of the full stimulus package was ameliorated by the passage of individual elements at a later date, but the fate of this initiative brought into question the ability of Congress and congressional Democrats in particular to work with the White House on their economic policy proposal.

The strength of Clinton's broader economic plan was demonstrated by the passage of the budget. Democrats united more consistently but were weakened over the energy tax element of the budget. The failure of Congress to support the energy tax on fuel consumption demonstrated the continued strength of industry and agriculture in committee politics. For the administration, however, it represented the first defeat of the Vice-President's agenda to link environmental and economic concerns in policy. In the final instance, the ignominy of Vice-President Gore's casting vote in the Senate seriously embarrassed the new administration in its first serious legislative test. However, the passage of the budget with its deficit reduction measures in place did deliver the new administration a symbolic victory and put in place the foundations for seven years of successful economic management and deficit reduction.

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<sup>183</sup> Woodward, Bob. The Agenda p. 68

The combination of White House and cabinet staff and policy orientation allowed the new administration to pursue its mandate for economic change. The mixture of Washington experience and business savvy allowed President Clinton to sell his budget to Congress and the business community. Clinton's initial impulses about economic appointments, ensuring the "swift and effective implementation of our economic plan"<sup>184</sup> proved decisive in securing the passage of the budget with few alterations. The weakness in the economic transition was the consultation and work undertaken in the interregnum, where the President-elect could have made more opportunities for working with Congress. However, the economic policy team, following the appointment of Bentsen, Panetta, Rivlin and Altman, adapted rapidly to the demands of being the administration rather than the administration in waiting.

### **Constructing Major Policy Reform**

Every President wants to place his mark on the institution, to go down in history for a great achievement. For Bill Clinton, this opportunity presented itself in the form of health care reform. A highly publicised initiative that promised to solve the problems of ever increasing costs – to the individual and to the country – and the unacceptable numbers of Americans unable to afford health care. The question facing the administration was whether or not it could inject a sense of social responsibility into an industry dominated by private hospitals, pharmaceutical multi-nationals, large insurance companies and wealthy doctors

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<sup>184</sup> Rosenbaum, David E. "The Transition: An Eye Toward Wall Street and Capitol Hill; Promises before Policies." New York Times. 11/12/92 p. A1

and convince the protected majority of the necessity of reform. Without the consent of the stakeholders and the support of the electorate there would be no reform of health care provision.

In an attempt to move quickly on the development of his health care reform plan Clinton utilised a number of different aspects of the election campaign and transition. The campaign proved an essential testing ground of policy options. Politicians at the state and national level were talking about the possibility of health care reform and putting forward policy options. For example, Harris Wofford in Pennsylvania's special Senate election in 1991 made health care reform central to his platform and won. The political capital to be gained from such reforms filtered through Congress and witnessed the proliferation of legislative proposals which sought to tinker with the current system of provision.<sup>185</sup> The 1992 presidential election also attracted contenders who were willing to place health care on their agenda. Their attachment to the various reform options available determined their levels of success and, in watching the debate play out in electoral and congressional terms, Bill Clinton was able to settle upon the reform option which offered the path of least resistance.

As an early proponent of reform, Bill Clinton utilised his connections with the DLC and PPI to provide the underlying policy framework for his proposed reforms. Providing a synthesis of public and private provision which protected the individual, maintained the position of business actors in the health care sector, but required them to conform to government regulation, was the aim of the Clinton plan; managed competition became the 'buzz word' for health care

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<sup>185</sup> Skocpol (1996) p. 29-31

reform. For much of the Clinton campaign and during the early stages of the transition, the Clinton proposals were strongly thematic. By avoiding specifics in the early stages, the administration believed that it would be able to avoid premature conflicts with the electorate, organised interests and Congress.

Once elected, delivering on the campaign promise was to become the largest obstacle of Clinton's first term in office. Planning for the development of the reform policy during the transition competed with the appointments process and economic policy for concentrated attention. Between November 1992 and January 1993, Ira Magaziner developed the background for the policy proposal. It necessitated taking Clinton's broad themes and the policy research from the PPI and creating a detailed and strongly defined agenda from which to create a legislative proposal which took account of the economic, social and political realities facing the administration. In order to allow the president to concentrate his efforts on economic policy – which was the key to enabling health care reform – he deputised Hillary Clinton to lead the Task Force which would organise itself from Magaziner's policy outline.

The announcement of the formation of the Task Force followed the media firestorm over ending the ban on homosexuals serving in the military. This, in addition to the administration's problems with the nomination of Zoë Baird, did not provide a suitable platform for the announcement of the President's headlining policy initiative. The specifics of the policy initiative were still sparse and formation of the Task Force did not provide any clearer picture of Bill Clinton's intentions for health care reform. However, the administration promised that its health care reform proposal would be available in May 1993 – meeting the

informal transition deadline of the first 100 days.

Much of the critique of the health care issue has been focused on the Task Force; Hillary Clinton's involvement, its secrecy, its legality, its size and the final document it produced. For many observers of the process it appeared that the White House was acting outside the institutions of government and beyond the powers of the executive branch, hence the legal action taken against Hillary Clinton and Ira Magaziner. Walden<sup>186</sup> believes that much of the controversy of the Task Force could have been avoided if the Clinton had had a stronger sense of the law under which they were acting. Uncertainty over who was employed to do what and by whom resulted in confusion over the role of the Task Force and the working groups. Furthermore, greater openness would have encouraged inclusion and consultation rather than impressions of exclusivity and secrecy.

The litigation that ensued played out in its fullest form for considerably longer than the Task Force existed. The majority of the Task Force's deliberation took place between January and May 1993, but legal action continued into 1994. Central to this action was the ethical behaviour of members of the working groups. Given President Clinton's personal assurances of higher ethical standards in his administration, he provided opponents and critics alike with an irresistible opportunity to discredit him early in his term of office.

Issues of legality and ethics may not have been pursued had the structures and strategies used by the administration been more familiar. Central to this was Mrs. Clinton's involvement in the whole deliberation process. The power and influence exercised by First Ladies is well recognised, however, the explicit nature

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<sup>186</sup> Walden, *op. cit.*, p. 103

of Hillary Clinton's influence and her involvement in the administration's policy centrepiece troubled many political observers. Unelected and unaccountable, Mrs. Clinton's role appeared to go against much of the foundation of American politics. The complexity of the relationship between the Task Force and the working groups and their remit in relation to the formulation of health care reform policy did not rest comfortably with perceptions of how the White House should operate in its policy-making structures.

Beyond the semantics of the legal debate, the substance of health care reform policy was also destined for a turbulent time in the corridors of power in Washington. Levels of public support for Clinton's thematic approach to health care reform were high during the campaign and into the transition. Over time, support was eroded by a combination of effective negative publicity, doubts about the ability of the administration to deliver on its promises, the specifics of the policy and the necessity of the reforms. Between April 1993 and July 1994 the percentage of the American public who believed that the system of health care provision should be completely rebuilt fell from 55% to 37%. General support for the Clinton plan fell from 59% to 40% over the same time period (see figure 2).<sup>187</sup> Even before the decisive congressional action in 1994, the administration was losing the battle for public opinion, and this being the case, it should have come as little surprise that the legislation would have to be abandoned.

The question has to be asked whether there was an opportunity for health care reform in 1993? Was the fate of this initiative sealed by the means used to bring about the reform, or was the reform impossible regardless of the actions of

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<sup>187</sup> Brodie & Blendon, *op. cit.*, p. 406

the Clinton administration? Clinton's approach was flawed in the sense that it alienated many of the stakeholder groups who were essential at the consultation and implementation stages of any reform agenda. The publicity surrounding the Task Force and Hillary Clinton's involvement in the decision making process did little to put a positive spin on the intentions of the President, and persistent delays in the announcement of the plan portrayed the new administration as disorganised and indecisive.

The other major cause of delays was the budget. No finalised plan could be announced until the administration was sure of deficit reduction measures and the federal funds available to fund prospective reforms. The announcement of the Health Security Act had to wait until after the passage of the budget. Meeting this institutional imperative was vital and, in recognition of this, Clinton should have initially aimed for a policy announcement in the late summer of 1993. However, in seeking to meet the unattainable deadline of the first 100 days Clinton fell into the institutional trap bequeathed by FDR.

Health care reform through fundamental policy upheaval was never going to be possible. Without the notion of a crisis, too many individuals and groups involved in the consumption and provision of health care had too much to lose. In selecting this reform for his legislative agenda in 1993, Clinton failed to recognise that not all popular campaign promises are suitable policy priorities. The tenacity with which Clinton pursued health care reform despite public and institutional criticism provides another example of post-election hubris in a new administration.



## Resurrecting Old Policy Ideas

The beauty of Clinton's national service initiative was that it embraced more than just community based service. As a early policy priority it illustrated the Clinton administration's intentions to find different solutions to policy problems. Throughout his campaign he emphasised his awareness of the plight of the 'forgotten middle classes'. Health care reform was one policy area which was increasingly affecting their quality of life, another was the rising cost of higher education. In seeking to maintain the ability of the middle class to afford college level education, Clinton linked the necessity for educational grants to service in the community. Very much inspired by the ethos and motivation behind President Kennedy's Peace Corps, Clinton sold domestic national service to the American people as a way to help needy communities and to prevent students from dropping out of college.

For a number of years Americans had been advocating community service and volunteerism as a solution to many of their social problems. For Republican politicians, volunteerism and community service were useful approaches to providing for community needs without cost to either local or federal governments. At the local level, programmes designed for specific ends had been working to rejuvenate inner city communities. Historically, federal approaches to community service were fragmented and disjointed as a result of the Great Society policies in the 1960s. There was little sense of an overarching national service plan until Clinton's proposal in the 1992 election. Beyond the world of politics, the benefits of the link between service and educational grants had been extolled

for approximately a decade. The DLC which constantly sought to bring together innovative social ideas with feasible policies became a consistent advocate of a more national version of community service.

The establishment of national service as a policy priority for the Clinton administration took place during the interregnum. The establishment of the White House Office of National Service provided the underlying framework for the development of the policy proposal. Its task was to unpack Charles Moskos's and the DLC's idea into a legislative proposal which could be put to Congress in the first months of the administration. Unlike Clinton's other early initiatives, it was not controversial and not complex in congressional terms. As an example of policy development, it had all the appearances of a perfect policy option for the new administration.

Intrinsic problems with the development of the national service initiative related to the structure of the White House Office of National Service. While Clinton and the transition team concentrated their attention on staffing the important cabinet posts, senior economic and defence positions in the White House, and ensuring commitment to the EGG criteria, the small lower profile White House office would become the depository for younger, less experienced White House staff fresh from the campaign. Moreover, Clinton's own focus on economic policy would require that the management of the Office of National Service would have to be deputised. Clinton's choice of Eli J. Segal revealed a management strategy which would become common in the Clinton transition.

Positions in government that were connected to policy areas to which Clinton was deeply committed, but fell outside the central focus of economic

policy, were placed in the hands of his closest and most trusted friends. These appointments posed the greatest dichotomy in his White House. His most trusted friends were given a great deal of autonomy in developing policies of which they had little understanding coupled with limited knowledge of the operating structure of Washington. This managerial strategy reflected Clinton's previous political experiences as Governor, where it was possible to rely on a very personalised staff – hence his desire to work with McLarty, Segal, Mrs. Clinton, etc.

Problems associated with the development of national service policy were allied with the appointments made and the pressures of the legislative agenda. The policy's announcement following Clinton's budget and stimulus package necessarily meant that it was competing with a major legislative action for publicity and congressional consideration. Despite the potentially universal appeal of the policy, it came up against stiff opposition from legislators in both houses. Several policy proposals relating to a form of domestic national service had been put before Congress in previous terms. Proponents of these policies continued to maintain an attachment to the proposals and were often reluctant to support the new proposal from the Clinton administration.

In seeking to adapt a policy idea tackled previously in past Congresses Clinton had not only to make his proposal more attractive to legislators who had not supported earlier incarnations of national service but also compromise on the details of the policy to ensure the support of previous sponsors. These compromises manifested themselves in the form of numbers of volunteers and the value of the post service award. Both were affected by the spending limits imposed by the budget deficit.

Linking the problem of deficit reduction and increased federal government spending provided the dilemma for both policy makers and legislators. Providing volunteers with post service awards and administering the programme had the potential to conflict with Clinton's long term economic plan. It was only through reducing the cost associated with each volunteer, and by consolidating the administration of existing service programmes such as VISTA and ACTION with the new programme – Americorps – that the administration was able to reduce costs, thereby convincing Congressmen that the programme would not result in the spending of large amounts of federal money.

As a legislative strategy, the announcement of this policy just weeks after the beginning of the budget battle demonstrated a lack of awareness of the operational limits of Congress. In managerial terms, the Office of National Service was weakened by its sparse links to the Washington establishment. President Clinton may have had confidence in the ability of Segal to direct the development of a policy option but his outsider status did little to help the development of relationships and contacts to overcome the battles it faced in Congress.

### **Transition Success Factor Three: Setting the Legislative Agenda**

Clinton's overall legislative agenda was very ambitious, too ambitious for Congress. It was impossible to define his presidency by its successes because these successes were always camouflaged beneath more media attractive occurrences. Part of the key to managing legislative agendas is the ability of Presidents to

promote the issues they want promoted rather than the issues which seem to want to promote themselves. Clinton's performance improved with the appointment of David Gergen to the White House communications office, but early impressions of drift and inconsistency remained with the administration. In terms of Brauer's third factor for presidential success, setting the legislative agenda, the Clinton administration made attempts at putting forward a clear policy message, but were unable to prevent peripheral policy issues from distracting their attention from the central task of economic policy.

### **Understanding Personal Strengths and Weaknesses**

It is recognised that Bill Clinton came to the Presidency in 1992 with a number of personal gifts, not least of which were his analytical mind and passionate interest in all things related to policy. However, everyone has their weaknesses and these also manifested themselves during his first year in office. Stressing the interplay of these strengths and weaknesses in an assessments of Clinton's presidential performance is vital. The elements of pre-transition planning, political appointments and selecting policy priorities clearly reveal the strengths and weaknesses of Clinton's leadership style.

Self-reflection is a difficult activity and possibly virtually impossible for a politician who has just been elected to the most powerful office in the world. The recognition of weakness in this instance goes against every impulse. For Bill Clinton, his major weakness was his personalised approach to management. His desire to be immersed in every aspect of his presidency stretched his skills and

resources to their limits. As governor, with a handful of staff, and fewer responsibilities, this style of leadership defined him as a product of his political time and location. However, this management style did not transfer well to the White House and the U.S. presidency. This personalised approach translated into an ill-defined and non-hierarchical White House structure and, in terms of policy development, it produced a broad and ambitious agenda from which it was difficult to discern a primary legislative objective.

The Clinton White House did improve over time, which is as much to do with the ability of his appointees as with adjustments to his own style of leadership. In seeking to take over the levers of power, which is the purpose of the transition, he did not facilitate a smooth transfer. He did not provide other actors in the political system with the structures to understand the intentions of the new administration and thus did not facilitate their assistance, rather he encouraged criticism and opposition. In Arkansas, this would not have been a fatal error but in Washington, it delayed his ability to begin governing.

Clinton's policy priorities in his first year in office reflected not only the diversity of his campaign promises but also his vision of the presidential institution and how he intended to work within it. Through rhetoric, he sought to emphasise his desire to tackle the economic policy and the deficit. In this issue, which attracted the most concern during the election, he recognised that this was where his mandate with the electorate was the strongest. However, his ability to maintain this focus was limited by his desire to enact social policy aimed at the margins of society. The lack of policy clarity which faced Congressmen, organised interests and political commentators, provided them with opportunities

for criticism and obstruction.

During the presidential election, the strength which Clinton demonstrated above all others was his ability to communicate. In comparison to George Bush, who was renowned for his inability to inspire through rhetoric, Bill Clinton was able to capture the attention of an audience through a mixture of simple policy themes and the demonstration of his awareness of what was important to his audience. Once in office, the President's reliance on this personal strength was to become one of his most visible weaknesses. The communications strategy of the Clinton White House was a sharp departure from the ones adopted by previous presidents. The operation of the White House Office of Communications alienated the most important and influential media actors in Washington. Rather than using the mainstream media channels accessed through the White House Press Corps, the Clinton White House 'narrowcasted' directly to the electorate, a strategy which had been highly successful during the election.

In by-passing influential journalists Clinton maintained his personal popularity with the American people, but found himself unable to control the substance of reports on the nightly television news. In the age of electronic mass communication, when news travels at the rate of seconds and the sound bite controls the nature of news reporting, it is essential that the President is able to influence the content of news programmes and newspapers through his communications strategy. In addition to not controlling the nature of the news reported, Clinton alienated the media on a more personal level, "preventing them from getting the stories they needed to maintain their prestige."<sup>188</sup> The early

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<sup>188</sup> Wilcock, Rita J. "The Compromising Clinton, Images of Failure, Record of Success." in Denton, Robert E. Jr. & Rachel L. Holloway. The Clinton Presidency: Images, Issues and

months of the Clinton White House witnessed the President continuing the presidential campaign as a strategy for promoting his legislative agenda and operationalising his presidency.

Following upheaval in his Office of Communications and the appointment of David Gergen as Director of Communications, the attitude and tone of the White House towards the media changed substantially. The Press Corps regained its primacy in the White House daily agenda and received the type of information which they could usefully report. After the passage of his budget in August 1993, the President said “I did not realise the importance of communications and the overriding importance of what is on the evening television news. If I am not on, or there with a message, someone else is, with their message.”<sup>189</sup>

#### **Transition Success Factor Four: Assessing Strengths & Weaknesses**

There is no doubt that Bill Clinton brought a range of talents to the White House in January 1993. His strengths were his ability to work with complex policy options and to connect with the American people. His weaknesses, however, were a reluctance to play Washington’s political game, work with a limited number of policy options - in relation to one issue area or multiple issues and a highly personalised approach to management. The interaction of these factors ensured a rocky start to Clinton’s first term in office. As a candidate, his strengths made him highly successful and his weaknesses were of little importance to the campaign. Once elected, however, it was his weaknesses that became the

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Communication Strategies, p. 126

<sup>189</sup> Bill Clinton quoted in Woodward, B. op. cit., p. 368



driving force behind his presidency. Clinton failed to reflect upon his early problems and mistakes and compensate quickly to avoid repeat performances.

## **Conclusion**

Acquiring and maintaining success in presidential transitions requires that the presidential candidate and newly elected president embark not only upon a process of pro-active preparation, but also of sustained development and adaptation of their administrative style. For Bill Clinton the pursuit of success was coloured by his political and personal experiences. These can be interpreted through Brauer's four factors for transition success to a single theme. Many of the problems that Clinton experienced following his election and during the early months of his administration resulted from an inability to communicate a single, coherent political message. This theme establishes clear linkages across issue areas discussed in this thesis.

Firstly, transition planning efforts were hampered by a variety of loosely defined objectives. Secondly, important White House organisational decisions were displaced and overshadowed by the desire for racial and gender diversity in appointments to the EOP. This was compounded by Clinton's personal desire to be the centre of all political and policy decisions. Thirdly, an ambitious legislative agenda was handicapped by a lack of institutional back up; this should have been provided by a strong administrative structure in the early weeks of the new administration. The notion of legislative priorities was negated by minor policy issues stealing the political spotlight from central policy themes. Finally, Clinton's personalised approach to his own presidency allowed him to fall into the many of

the traps associated with post election hubris and ideas of political invulnerability.

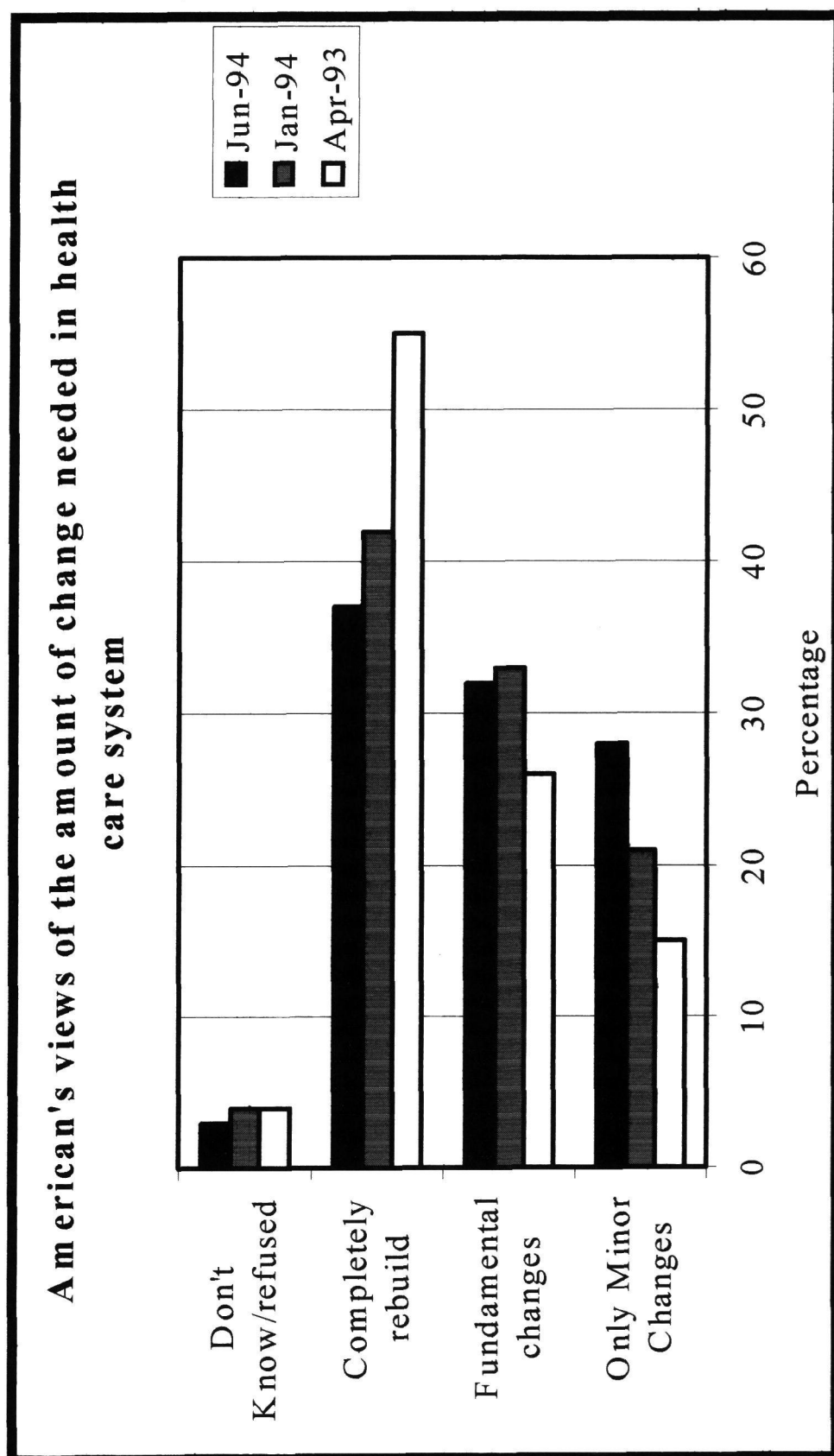
These four factors pull together to provide a wider picture of the early Clinton administration that is not strongly signposted by individual issues and cases. It can be seen that there are clear linkages between president, policy and personnel across issue areas in the Clinton transition. The diversity of the legislative agenda and the nature of the appointments distinguished the new administration from its predecessors and reflected both Bill Clinton as an individual and his conception of the institution. The new President stumbled in his attempt to take over the levers of power by his attempts to extend the presidency into unfamiliar territory and impossible political situations.

**Figure 1.**

<b>Sequence of Presidential Appointments by Carter, Reagan and Clinton.<sup>190</sup></b>	
<b>Carter</b>	
1 <sup>st</sup> Week:	None
2 <sup>nd</sup> Week:	Press Secretary
3 <sup>rd</sup> Week:	None
4 <sup>th</sup> Week:	None
5 <sup>th</sup> Week:	Secretary of State, Director of OMB
6 <sup>th</sup> Week:	Secretaries of Treasury, Transportation
7 <sup>th</sup> Week:	Secretaries of Interior, Commerce, Agriculture, Defense, Labor, HUD, and Attorney General, head of NSA, Ambassador to UN, Chairman of CEA
8 <sup>th</sup> Week:	Secretaries of Health, Education and Welfare and Energy and Director of CIA
9 <sup>th</sup> Week:	None
10 <sup>th</sup> Week:	None
11 <sup>th</sup> Week:	Congressional Liaison, Counsel, Domestic Policy
<b>Reagan</b>	
1 <sup>st</sup> Week:	None
2 <sup>nd</sup> Week:	Chief of Staff, Counsel
3 <sup>rd</sup> Week:	None
4 <sup>th</sup> Week:	None
5 <sup>th</sup> Week:	None
6 <sup>th</sup> Week:	Secretaries of Commerce, Treasury, transportation, HHS, Defense, State, Labor, and Attorney General, Director of the OMB, and Director of CIA
7 <sup>th</sup> Week:	Congressional Liaison, Domestic Policy, Secretaries of Interior, Energy, HUD, and Agriculture, Head of NSA, and Ambassador to UN
8 <sup>th</sup> Week:	None
9 <sup>th</sup> Week:	Press Secretary
10 <sup>th</sup> Week:	Secretary of Education
11 <sup>th</sup> Week:	None
<b>Clinton</b>	
1 <sup>st</sup> Week:	None
2 <sup>nd</sup> Week:	None
3 <sup>rd</sup> Week:	None
4 <sup>th</sup> Week:	None
5 <sup>th</sup> Week:	None
6 <sup>th</sup> Week:	Chief of Staff, Secretaries of Treasury, Labor, HHS, and Commerce, Director of OMB and Chairman of CEA
7 <sup>th</sup> Week:	Secretaries of HUD, Veterans Affairs, Education, Energy, defense and State, Director of CIA, Ambassador to UN, and Head of NSA
8 <sup>th</sup> Week:	Secretaries of Interior, Agriculture, and Transportation, and Attorney general (later withdrawn)
9 <sup>th</sup> Week:	None
10 <sup>th</sup> Week:	None
11 <sup>th</sup> Week:	Congressional Liaison, Press Secretary, Domestic Policy, Counsel.

<sup>190</sup> Adapted from Jones, Charles O. (1998) p. 94-5

Figure 2.



**Chapter 8: Conclusion**

In considering the performance of the Clinton transition, it is evident that there are several elements which can be thought of as crucial: the effectiveness of his planning organisations, his leadership style, his appointments, and his legislative priorities. Assessments of these various elements of his transition have been mixed<sup>191</sup> and it could be said that in many ways the Clinton transition avoids classification under existing theories. Charles O. Jones in Passages to the Presidency contends that in the Clinton transition we are seeing something new, that it represents a “watershed case”<sup>192</sup> and that transitions are now developing into something different which cannot be assessed under the old criteria. However, there is little about the Clinton transition that sets it apart from its predecessors and why it should, therefore, elude classification or assessment under the traditional measures. More than anything else, the Clinton transition represents the pressures of government and politics in the 1990s: globalisation, changing socio-economic requirements and rapid developments in information and communication technology.

In terms of the traditional measures, Bill Clinton made mistakes consistent with his predecessors, despite Brauer’s caution that newcomers to the presidency should learn from the mistakes of those who have gone before them.<sup>193</sup> Keen to undertake preparation for his presidency, transition planning was in place prior to the election, but not capitalised upon during the interregnum. This would categorise Bill Clinton’s performance as either a partial success or a partial failure depending on the perspective. In organising his White House, Clinton made judgments about his own

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<sup>191</sup> See Pfiffner (1996), Campbell & Rockman, Bond & Fleisher

<sup>192</sup> Jones, Charles O. Passages to the Presidency: From Campaigning to Governing. p.3

<sup>193</sup> Brauer, op. cit., p. 259

requirements rather than the needs of other Washington communities with whom he would have to work. This proved to be an early failure, but, after a few months restructuring brought about an improvement in relations between institutions and actors, after which a more favourable assessment can be made of the White House's performance. This adaptation to political conditions is part of the transition process and the fact that the President did react to the situation is an indication that he was aware of the problems and willing to embark upon change.

In seeking to compensate for the years of domestic policy neglect of Republican Presidents, the Clinton legislative agenda was highly ambitious. The administration's ability to sell this agenda was limited by its own inconsistencies and appetite for policy. These limitations were additionally impacted upon by the structure of the White House and the administration's relationship with the media. The failure of the early Clinton policy agenda is the most obvious weakness in his transition. In wanting to achieve so much from his presidency, Bill Clinton and his administration were unable to prioritise and positively publicise the major policy initiatives. However, this is not to say that the administration was unsuccessful in legislative terms. In his first year, Clinton received in excess of 80% success rates on conflictual votes in Congress, placing him only slightly below Presidents Eisenhower and Johnson and ahead of Kennedy and Carter.<sup>194</sup> Negative assessments of Clinton's legislative performance are focused on specifics and driven by the poor performance

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<sup>194</sup> Bond & Fleisher, *op. cit.*, p. 362

of health care reforms and the debacle of gays in the military, rather than the performance of the administration in all legislative areas.

The relative success of the National Service initiative and the battle for the budget demonstrate the new administration's capacity for policy innovation and legislative bargaining. The importance of these early policies was to provide President Clinton with terms of reference for his remaining priorities for his first year in office. Moreover, they represented learning opportunities for future policy and administrative goals. Despite problems of people and ideas, in the case of National Service, and of changing economic climates, for the stimulus package and the budget, the new administration turned its legislative fortunes around to bring about concrete policy achievements despite an less than co-operative Congress.

However, the impact of these policies upon the future of health care reform is clear. Clinton's style of policy deliberation and formulation which was disconnected from other transition activities had worked for National Service and continued with the Health Care Task Force. Delays in dealing with the budget and economic policy initiatives moved the legislative window opportunity for health care reform further into the first year. These delays made it less easy to view the legislative proposal as work in progress and open to change and adaptation. By September 1993 health care reform was overdue, and possibly over worked, but President Clinton was committed to its passage and compelled to fulfill his campaign promise.

The experiences of health care reform during the Clinton transition directly influenced how the policy was received by Congress and perceived by the public and



the Washington community. Clinton's approach to his transition compounded the potential policy problems that would have faced the legislation regardless of when it received consideration.

The problems that Bill Clinton encountered with his political appointments and policy priorities during the transition in 1993 overshadowed his personal strengths and exaggerated his weaknesses. It has been contended that Clinton's greatest strength, his intellect, was his greatest weakness, and if he believed that as a student of the presidency and a student of policy, he had 'the bases covered', he would be seriously mistaken.<sup>195</sup> There appears to be some credence in this theory. Bill Clinton's previous political experiences moulded his conceptualisation of the presidency as an institution and drove his organisational impulses. As Governor of Arkansas, he was most comfortable working with close friends and being in control of all aspects of an administration and these were the principles upon which his White House was based. Initially, he was unable to recognise that the White House required more structure because he and the White House would be the focus of attention in American politics and what worked in a small southern state could not be transferred directly to Washington D.C.. This personalised approach to government would never disappear, but it would become more structured with the appointment of advisors more familiar with the workings of Washington and the political education of the Washington newcomers working within the White House.

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<sup>195</sup> Pfiffner, *op. cit.*, p. 180

In terms of Brauer's four factors for transition success, it appears that Bill Clinton's performance was very mixed. In comparison with Reagan's transition, it was shambolic; in comparison with Carter's, it adapted more quickly to the administrative and organisational circumstances which confronted the administration. Brauer's observations about presidential transitions usefully highlight the central problems of the Clinton transition and can be applied in order to make assessments of success or failure. If the transition is about preparing for governing and achieving goals then the record of the Clinton administration is again mixed. In 1993 the policy goals, which the administration explicitly set itself were successful in the resolution of the budget and the lifting of abortion restrictions. There were qualified successes in the passage of the National Service Trust Act, elements of the stimulus package and to a lesser extent the repeal of the ban on homosexuals in the military. The most disastrous part of the Clinton transition was the failure of health care reform, not just in policy terms but also in terms of the perceptions of the motivations and actions of the Clinton administration. Until the impeachment crisis in 1998 and 1999, the failure of health care reform threatened to be the mark which Bill Clinton left on the American presidency.

The question arises whether health care reform can be viewed as the defining element of the Clinton transition or of the Clinton first term? Whether the failure of health care reform was more symptomatic of the transition process than of the policy process in general? There can be little doubt that any comprehensive attempt to reform the United States' current system of health care provision would face a

number of social and political challenges and that success would be elusive. The timing of the presentation of reform legislation places health care reform as an issue in the very latter stages of the Clinton transition. However, the structural and intellectual processes which lead to this legislative announcement were situated in the very heart of the transition process. The formation of the Task Force and its relationship to the rest of the administration reflect Bill Clinton's legislative and managerial ambitions in the early stages of his presidency. The lessons learned, in particular from the battle for his economic policy agenda, came too late to influence the fundamental decisions effecting health care reform. By September 1993 any dramatic changes to the target of comprehensive health care reform became impossible to justify as the new administration had spent so long preparing for the legislation. Furthermore, it was never Bill Clinton's intention to just tinker with the existing system, he had promised comprehensive reform. Despite the example of the National Service legislation which provided a simple, coherent and incremental solution to a campaign promise, the Health Security Act would remain a large, diverse and all encompassing attempt to solve existing problems.

Central to the outcome of the health care reform proposal was the influence of Hillary Clinton. Her 'old' Democrat ideals, shaped by the comprehensive welfare policies of the New Deal and the Great Society, directly influenced the Task Force's approach to policy deliberation. Her experiences with education reform in Arkansas steeled her for the challenges of reforming a large and powerful industry, but did not provide her with adequate preparation for the task ahead. Washington's, and the

nation's, experience of Mrs Clinton, the Task Force and health care reform damaged perceptions of the Clinton White House. Many questioned the desirability of such overt influence by a spouse who was both unelected and unaccountable to the American people. The ultimate failure of health care reform was believed to be a vindication of these fears.

The weakest areas of performance of the Clinton transition reveal additional interesting aspects to presidential transitions. The problems associated with the passage of health care reform and support for repealing the ban on homosexuals in the military are linked on one level by the opposition of powerful organised interests and low levels of public support. However, there is a more important legalistic link. In both cases President Clinton embarked upon an innovative strategy for solving social problems with little awareness of the legal mechanisms that he was seeking to employ. The Task Force's responsibilities and relationships to the administration tested the provisions of the Federal Advisory Committee Act in the very public world of the courtroom. Legal questions about its powers and responsibilities were only resolved after it was disbanded. More importantly in presidential terms, the scope of executive powers was tested with the President's use of the Executive Order in an inappropriate case. The final outcome of the homosexuals in the military case should caution Presidents to look carefully to history when seeking to use extra constitutional mechanisms. Activist Presidents who wish to extend the use of executive powers into new policy areas, should ensure that the legal ground upon

which they are proceeding is solid. The loss of good policy is one pitfall should they be unsuccessful, but more fatal is the diminution of presidential power and prestige.

The experience of the Clinton transition can be seen to add to the diverse experiences of previous Presidents. The extent to which the Clinton transition can be seen as a watershed is severely limited by the absence of a direct comparison. John Kennedy came to the presidency at the dawn of a new television age and his transition could have been classified as a watershed, however, subsequent analysis proves that it was the natural development of presidential transitions in response to changing technological circumstances. Brauer cautions students of the presidency that “the importance of transitions should not be exaggerated”,<sup>196</sup> and in the case of Bill Clinton this is sound advice. The transition established the foundations of his presidency, but they were not set hard in concrete. Despite the mistakes and omissions, Clinton was able to recover. Following the 1994 congressional mid-term losses it appeared unlikely that Clinton would be re-elected in 1996. But the combination of a sound economy and a weak opponent returned Clinton to the White House as the only second term Democrat President since Franklin Roosevelt.

The Clinton transition reveals much to the observer about the influence of this formative period upon the development of an individual’s presidency. Assessments of aspects of Clinton’s transition such as appointments, policy priorities and the relationship with the media have branded it an unqualified failure. However, it is clear that such an assessment is based upon aspects of the transition taken in abstract.

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<sup>196</sup> Brauer, *op. cit.*, p. 268

It would be impossible to contend that the Clinton transition was successful overall, but the new administration showed both the willingness and the ability to learn from its mistakes and to adapt to the demands of leadership over time. In considering the broad range of transition activities, this study has shown that President Clinton was able to capitalise upon the strength of his appointments, especially in the sphere of economic policy, achieve broad legislative success unmatched in recent majority party presidencies and embark upon major changes in his White House to reflect the lessons learned.

In seeking to determine the relationship between the Clinton transition and the Clinton presidency, Brauer's observations revealed an intricate web of influences working together to produce a transition which did not adequately prepare Bill Clinton for the task of governing. In considering President Clinton's early policy priorities, it was revealed that a previously overlooked aspect of presidential study was significant in the development of Bill Clinton's presidency. His use of Executive Orders was illustrative of the difficulties faced by newly elected presidents in making use of the full extent of their executive powers. In seeking to utilise a powerful policy-making tool the President was forced to recognise that the scope of this executive power is not boundless and that its use is limited by historical precedent and the recognition of a policy crisis. Executive Orders are a neglected area of presidential study but this study suggests they offer a new dimension to assessments of presidential transitions.

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